



UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

REPUBLIC OF DJIBOUTI

INVESTORS' ROADMAP

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The Investor Roadmap of Djibouti – Executive Summary

Background

The United States Agency for International Development (USAID), in conjunction with the Government of Djibouti, has commissioned Booz Allen & Hamilton, an United States-based consulting firm, to conduct an Investor Roadmap of Djibouti. The study is an in-depth analysis of the steps required of an investor to become legally established in Djibouti. This focus is appropriate at the current time, given the fact that Djibouti has recently elected a new Government that seeks to improve the country's overall investment climate.

Although Djibouti's investment environment has recently improved, and the investment climate is reasonably good when compared with many of its neighbours, much work remains to be done. The individual constraints to doing business in Djibouti are not sufficiently problematic to deter a potential investor; however, when investors encounter multiple bottlenecks across the entire spectrum of the start-up process, Djibouti can become considerably less attractive as an investment destination.

Overview of Findings

The Investor Roadmap's focus on procedural and regulatory barriers to investment illustrates the extent to which government policies affect the competitiveness of every type of investor – whether local or foreign. The Roadmap's objective is to identify and document procedural and regulatory impediments to investment, with the ultimate goal of facilitating improvements in these areas. Procedural bottlenecks that delay a project's completion or increase the risks of investment inevitably increase the cost of doing business.

The Investor Roadmap seeks to assist Djibouti in two ways: 1) to identify ways of improving investment start-up procedures without significant increases in resources and, 2) to implement the changes required to increase investment levels and regional and global competitiveness.

Djibouti's investment climate is competitive with many of its neighboring countries. Investors do not cite the Immigration process as being particularly lengthy as in many other countries. The company registration process, while somewhat lengthy and complicated, does not take an inordinate amount of time and does not present unreasonable delays. The goods clearance processes are considered reasonable by investors in Djibouti. Although aspects of the environment are not negative, much work remains to be done to make Djibouti a premier investment destination.

The most recurrent problem mentioned by investors in almost every stage of the investment start-up process is the lack of procedural transparency. There are few formal, written guidelines. The success of many applications and requests hinges on the approval

of the Minister responsible for the particular portfolio. Of course, the relatively small size of Djibouti and its government plays a large role in the “intimacy” of the decision making by the country’s political leaders. However, the lack of systematic approval processes reduces the transparency and increases the risks associated with investing in Djibouti.

The following sections summarize the key findings in each of the four groups of activities of the investment start-up process. In addition, Djibouti’s investment start-up process is compared with a group of regional and non-regional competitors.

➤ **Group 1: Employing**

Foreign investors in Djibouti did not identify entry, residency and work permit application procedures as being sufficiently problematic to constitute a major deterrent to investors; however, there are several bureaucratic and duplicative procedures at various points in the foreign investor entry process.

- A minor complaint is centered around the fact that even those expatriates that have residence permits are still required to obtain visas
- The determination that a prospective employee profile already exists in Djibouti and the subsequent rejection of the work permit application is a problem facing employers who wish to hire expatriates. The Labor Code does not provide clear criteria as to the factors that are to be considered when making such a determination; moreover, there are no mechanisms in the Labor Code whereby a wrongful work permit application rejection can be challenged.
- The Labor Code is largely out of date (1952) and in need of revision. Many of the components of the Labor Code make Djibouti unattractive to investment.

➤ **Group 2: Registration**

Company registration procedures in Djibouti, while not particularly problematic for investors, are extremely lengthy, perhaps unnecessarily so. Work has been done in order to establish a "one-stop" approach to registration. However it has not been practically implemented at the time of writing. The process of obtaining investment incentives is complicated by a vague and non-transparent investment code.

- Investors have not described the company registration process in Djibouti as especially burdensome. There is an excessive number of steps and documentary requirements, involving four different Djiboutian government entities.
- Investors consider the Djiboutian tax regime as problematic due to its complexity.

- The complexity of the registration process is exacerbated by the absence of a formalized guide. This creates uncertainty in the process and results in unnecessary delays.
- Even with the use of facilitators, , it can still take foreign investors up to one month to complete the company formation and registration process.
- Investors have not had access to the complete range of incentives offered by the investment code because of confusing procedures and unclear roles of the Board and the Investment Promotion facility. In this respect, the investment code would benefit from increased transparency and clearer rules.
- The company registration process is dispersed across several agencies with little or no coordination among them; moreover, there are numerous duplicative requirements among these agencies. There are often multiple interactions with a single agency. The implementation of the one-stop agency would provide significant benefits to investors in this respect.

➤ **Group 3: Site and Investment Development**

Investors consider the site location process in Djibouti to be one of the most difficult aspects of the overall start-up process. Procedures for utility connection are not considered especially problematic.

- Acquiring available land is one of the most difficult undertakings that an investor must face. Reforming the processes and institutions involved in land acquisition critical prerequisites for attracting new investors. The level of Government involvement when buying land is inappropriate. The process is time-consuming and lacks transparency.
- There is an acute shortage of reasonably priced land ready for investment.
- The current land acquisition and registration/recording process is complicated, overly centralized, multi-layered, and lacks standardized application forms. The multiplicity of Government agencies and commissions involved in the process makes it prone to abuses
- The process for obtaining construction permits is time-consuming and cumbersome. There are multiple agencies involved in the approval process. Some members of the private sector noted that the time limit imposed on government officials to issue building permits is routinely ignored.

➤ **Group 4: Operating the Business**

Once the business is operational, investors must begin to undertake the following tasks: importing and exporting goods, negotiating the legal system and licensing

- Unlike many countries, Djibouti's import/export clearance procedures do not figure prominently in the private sector's list of problems related to doing business in the country. Goods are generally cleared in 72 hours or less, and theft is not considered high when compared with neighboring ports. Disputes occur, largely stemming from goods originating from the Middle East and Asia, typically regarding valuation.
- Investors have encountered numerous problems with the Djiboutian banking system. Investors are particularly concerned about the availability of long-term finance.

Conclusions

The investment environment of Djibouti uncovers a lack of systems for approvals. Many approvals are made at the whim of an official, minister, or review board without an apparent set of criteria. In many cases, registrations become applications for approval. While this type of environment is known as a breeding ground for rent seeking and corruption, interviews with members of the private sector did not highlight corruption as a concern when doing business with the Djiboutian Government.

Nonetheless, the lack of transparency throughout the various processes will hamper Djibouti's ongoing efforts to attract Foreign Direct Investment. The Government of Djibouti should review the processes involving interaction between itself and the private sector, and create guidelines and systems in order to deal with applications and registrations.

Typically, the imposition of such systems is thought to increase the administrative burden on the foreign investor. However, in the case of Djibouti, a small country without the burden of legacy systems, it should draw from the example of world leaders such as Chile, Malaysia, and Hungary, in order to design transparent, timely, and flexible systems

Purpose of the Investor Roadmap Study

The Investor Roadmap study comes at an especially appropriate time for Djibouti. The country's dynamic macro-policy environment, coupled with increasing international investor interest in Djibouti, creates numerous opportunities to build on the reforms that have already been implemented or are in the process of being implemented. It is hoped that the Investor Roadmap of Djibouti can successfully complement the policy reforms already undertaken and can serve as a catalyst to extend the scope of these reforms throughout the country.

The report is intended to invite responses from the concerned agencies in order to identify means of streamlining the overall process. The recommendations made are designed to be suggestive, not definitive, and to encourage those professionals involved to work together to devise concrete means of addressing the current problems and constraints.

Methodology and Notes

The Investor Roadmap research was conducted during October 1999 and February 2000. It involved interviews with public-sector officials and dozens of businesspeople in a wide variety of professions; collection of a wide variety of documentation, including Djiboutian government legislation; data from international organizations such as the USAID and UNIDO; review of Djiboutian newspapers and magazines; and Internet research.

1. THE INVESTOR ROADMAP: METHODOLOGY

The Investor Roadmap is a comprehensive in-depth diagnostic study of the individual steps required of an investor to become legally established and operational in the Republic of Djibouti (Djibouti). It addresses the procedural and administrative barriers to investment and business operations in the country. This focus is most appropriate at the present time given that Djibouti, like many other developing countries in Africa, is extremely keen to attract foreign direct investment as a means for ensuring the sustainable economic development of its people. Moreover Djibouti is facing increased competition from its neighbors, particularly its fellow preferential trade area partners in the Common Market for Eastern and Southern Africa (COMESA).

Law No. 58/94/3 EME-L dated October 16, 1994 on Foreign Investments has contributed to the growth of inward investment in Djibouti. Nevertheless, developing the policy and regulatory environment for private business establishment and expansion remains a daunting challenge. Most of the reforms undertaken to date have been on highly visible matters such as taxes and tariffs and monetary and exchange rate policies. While the importance of these reforms should not be underestimated, Djibouti now must press forward with the “second-tier” administrative, regulatory and policy reforms.

The overall administrative and regulatory environment for business start-ups and functioning in Djibouti still falls far short of what world-class investors expect, and of what will facilitate high levels of foreign and local private investment. While some of the constraints may appear to be inconveniences rather than binding constraints, nevertheless in practice when they are grouped together as a whole they operate as a significant deterrent to private sector investment and business operations in the country.

The goal of the Investor Roadmap is three-fold:

- To develop a comprehensive investment guide, detailing step-by-step all the procedures and application requirements an investor must fulfill to become fully operational and to continue doing business;
- To identify existing bottlenecks and inefficiencies and to make recommendations on how best to streamline them, through, *inter alia*, eliminating regulations, reducing the number and amount of supporting paperwork to comply with regulations, and by making approvals more automatic and transparent;
- To analyze other factors impacting the investor that result from the legislative and regulatory environment; and

The approach to the study has been developed and refined in similar projects conducted by Booz Allen & Hamilton in Africa and Central Asia. The Investor Roadmap model is comprised of 13 core processes divided into 4 process groups over two phases of investment -- namely, (i) start-up and (ii) functioning.

As shown in Figure 1.1, the four process groups are:

- **Employment** issues, including temporary and permanent residency permits and work visas for investors and expatriates and labor relations;
- **Locating** issues, including leasing and developing land, as well as utility hook-ups;
- **Reporting** to government, including business registration, environmental compliance, and tax registration and reporting; and;
- **Operating**, including importing, exporting, and profit and capital repatriation.

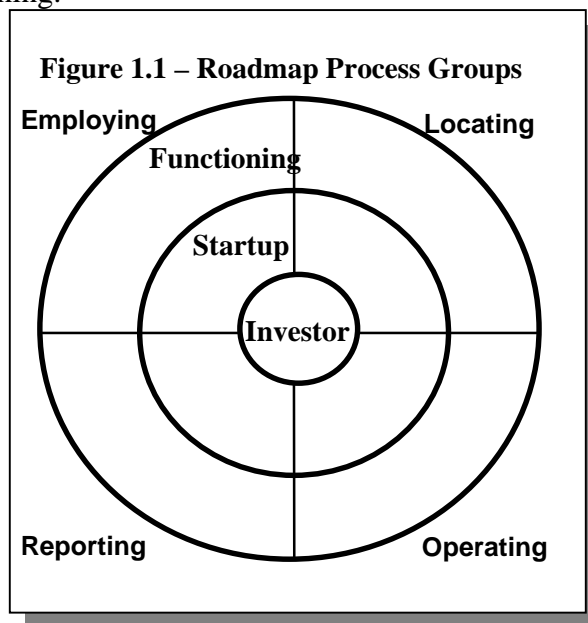


Table 1.1 herein below summarizes the 13 core processes.

This Investor Roadmap has been prepared in direct collaboration with the Djiboutian Ministry of Presidential Affaires and Investment Promotion, and other ministries, departments and agencies of the Government of Djibouti (GoD). Private sector operators and institutions were closely consulted throughout its preparation.

The Investor Roadmap maintains the perspective of all investors, both foreign and domestic. Because foreign investors are required to undertake some steps not required of domestic investors (e.g., immigration and work permits), it is more comprehensive than if it were just to focus on the domestic investment perspective. Nonetheless, the Investor Roadmap is indeed relevant to domestic investors who are subject to the vast majority of steps outlined.

This Report is structured in two parts: (i) the Roadmap; and (ii) other issues of the investment climate facing investors in Djibouti. The Roadmap itself comprises four core sections representing each process group (employing; locating; reporting; and operating). Each section is then composed of two components: (i) process; and (ii) analysis/recommendations.

The first step of the process component is to document, in as much detail as possible, the various steps and formalities required to establish a new business and to

begin its operations in full compliance with existing Djiboutian laws and regulations. The licenses or approvals required, their application procedures, and criteria for qualification are all detailed. The fees or processing payments are noted, as are typical processing times for each step and formality. In most cases these are average processing times reported by the ministries or agencies for investors without unusual characteristics or problems. Actual processing times encountered by individual investors may be significantly longer. (The Annex to this Report contains copies of all the principal forms required for each step at each ministry or agency.)

Process components are followed by an analysis in which policy and procedural issues are identified and discussed, with recommendations for streamlining made where appropriate. Recommendations are based on the twin objectives of simplifying application procedures for investors while enhancing the ability of public officials to screen key information properly.

Table 1.1: Investor Roadmap – 13 Core Processes

	Process	Stage	Description	Notes From <i>Previous Roadmap Experience</i>
Employing	1. Investment Permit	Startup	Applying for Permit	In many cases, the most time consuming and frustrating part of foreign investment
		Functioning	Renewing Permit	Usually does not fall on critical path. However, the need for renewal creates risk for the investor.
	2. Expatriate Work Permit	Startup	Applying for Permit	In many cases, this may be critical to the success or failure of the investment.
		Functioning	Renewing Permit	Becoming a problem as many countries are clamping down on repeated renewals.
	3. Local Labor	Startup	Hiring Workforce	Usually not very bureaucratic, if any government involvement at all.
		Functioning	Managing Workforce	Many facets including collective bargaining, dispute resolution and pay collection.
Locating	4. Acquiring and Leasing Land	Startup	Purchasing Land	Can be the most difficult and confusing. Can make or break an investment.
		Startup	Leasing Land	
		Functioning	Expansion	Not usually a critical factor in investment decision-making.
	5. Transferring Land Ownership	Startup	Transferring Deeds	Can be a problem in some countries lacking sophisticated systems.
		Functioning	- none -	
	6. Developing Land	Startup	Planning and Construction	Problems can occur especially with utility connections. Usually high variability between town planning offices.
		Functioning	Expanding Facilities	
Reporting	7. Registering and Licensing	Startup	Applications	Can be complicated, and potentially a source of corruption, but usually timely in most countries.
		Functioning	Renewals	Usually not an issue.
	8. Registering and Paying Taxes	Startup	Registering as Tax Payer	Usually not an issue.
		Functioning	Paying Taxes	Can be overly complex, inconsistent from year to year in some countries.
	9. Environmental Compliance	Startup	Environmental Design	In many cases, this is not a major cause for concern in developing countries.
		Functioning	Monitoring	

Operating	10. Importing Capital Equipment	Startup	Importing Machinery	Can be very complicated, especially with valuation issues.
		Functioning	Importing Machinery	
	11. Importing / Exporting Goods	Startup	Importing Raw Materials	It is critical that goods get cleared quickly – this can have a negative impact on the business
		Functioning	Importing / Exporting	
	12. Repatriating Profits	Startup	Registering with Bank	Not usually a problem.
		Functioning	Repatriating Profits	Can be very problematic in certain countries and potentially a deterrent to investment.
	13. Acquiring Incentives	Startup	Applying for Incentives	Can be very complicated, lengthy. Causes frustration for investors.
		Functioning	Claiming Incentives	Must be timely to avoid bad reputation in investment community.

2. EMPLOYING

Specific procedures apply to investors entering Djibouti, and an investor's business start-up faces certain responsibilities in staffing its facility in Djibouti. This Chapter provides a guide to investor entry and employment procedures, including: foreign investor entry requirements; investor visas and residency permits; expatriate workforce and work permits; labor legislation; local labor recruitment; labor unions; and free zones employment policy. The Table in Section 2.4 illustrates the costs and processing times associated with obtaining and renewing entry visas and expatriate residency and work permits in Djibouti.

2.1 Foreign Investor Entry and Residency Requirements

All foreign investors and expatriate employees must have a valid visa to enter Djibouti. In order to reside in Djibouti beyond the expiration of their visas, these investors and employees are required to have a residency permit. The following are prerequisites for residency permits:

- For investors, obtaining business licenses are prerequisites to applying for a residency permit(issued by the Ministry of Economy and Finance)
- For expatriate employees employment permits are prerequisites to applying for a residency permit (issued by the Ministry of Labor and National Solidarity)

. The National Police Force issues residency permits under the auspices of the Ministry of Interior and Decentralization.

The contact information for the relevant Government agencies responsible for visa and residency and work permit related matters is as follows:

Ministry of the Interior and Decentralization
Address: Pierre Curie Street, P.O. Box 33
Djibouti
Telephone: 35-07-91 / 35-25-42
Facsimile: 35-48-62

Ministry of Economy and Finance
Ministerial City, P.O. Box 13
Djibouti
Telephone: 35-02-97
Facsimile: 35-65-01

Ministry of Labor and Professional Training
P.O. Box 170
Djibouti
Telephone: 35-33-31 / 35-00-78
Facsimile: 35-00-74

National Employment Service
P.O. Box 1835
Telephone: 35-03-88
Facsimile: 35-03-22

National Police Force
Boulevard of the Republic, P.O. Box 54
Djibouti
Telephone: 35-38-91
Facsimile: 35-48-71

2.1.1 Entry Visas

Without exception, all foreign nationals must obtain a visa in order to enter Djibouti. There are no requirements for a sponsorship, letter of invitation, or prior immunization. The application for an entry visa may be submitted to any Djiboutian embassy or consulate abroad, or to immigration officials upon arrival at the Djiboutian port of entry. [French consulates abroad in countries where there are no Djiboutian embassies or consulates are authorized to issue entry visas.] Expedited visa issuance procedures are applied to nationals of the European Union, the United States and the Middle East. Entry visas are issued for an initial period of one (1) month and may be renewed twice thereafter for periods of three (3) months each time. Each person must complete an entry declaration form and deliver it personally to an immigration officer immediately upon arrival at the port of entry.

There are no special business visas in Djibouti. A foreign investor is authorized to enter into formal business negotiations or conduct a feasibility study on the basis of a valid entry visa. However, the investor must obtain a business license before proceeding with establishing a business in Djibouti.

2.1.2 Residency Permits

Foreign nationals wishing to be employed or conduct business on a regular basis in Djibouti are required to obtain a residency permit from the Ministry of Interior and Decentralization, National Police Force. Persons wishing to reside in Djibouti beyond the validity of their entry visas without being employed or conducting business equally require a residency permit and proof of adequate financial means of subsistence.

2.1.3 Application Process

To obtain a residency permit, an application of standard form must be submitted to the National Police Force prior to the expiration of the original entry visa or extension thereof.

The following documentation is required to apply for an expatriate employee residency permit:

- National passport.
- Employment contract.
- Work permit.
- Residential lease or three (3) consecutive invoices from Electricité de Djibouti (electric utility).
- Social security card.
- Visa under renewal.
- Four (4) identical recent pictures.

The following documentation is required to apply for an expatriate businessperson residency permit:

- National passport.
- Business license for the current year.
- Commercial Register registration.
- Indirect tax contribution certificate.
- Visa under renewal.
- Four (4) identical recent pictures.

2.1.4 Renewal Process

Residency permits are subject to annual renewal. A request for renewal on a standard form must be submitted to the National Police Force prior to the expiration of the residency permit being renewed. Holders of residency permits who exit Djibouti are required to apply and obtain an entry visa to re-enter the country, notwithstanding the continued validity of their residency permit.

The following documentation is required to renew an expatriate employee residency permit:

- National passport.
- Employment contract.
- Work permit.
- Land title or residential lease.
- Social security card.

The following documentation is required to renew an expatriate businessperson residency permit:

- National passport.
- Business license for the current year.
- Indirect tax contribution certificate.
- Land title or residential lease.
- Social security card.

2.2 Employment of Expatriates

Both the Labor Law and the Investment Code allow foreign investors to recruit expatriate employees. Official permission to employ expatriates must be granted by the Ministry of Labor and National Solidarity. Permission is granted only if Djiboutian citizens with the necessary qualifications and expertise cannot be found to fill the employment positions in question. Under the Labor law, the Ministry must approve employment of expatriate workers prior to their arrival in Djibouti, and all expatriate employees must enter into a written definite duration employment contract. In practice permission is usually granted to employ expatriates in professional managerial positions.

2.2.1 Expatriate Work Permits

Pursuant to Decree No. 81-103/PR/TR dated November 4, 1981, foreign nationals who wish to work in Djibouti must have a valid work permit. An employer must obtain a work permit on behalf of its prospective expatriate employees prior to their arrival in Djibouti. It is possible for a prospective expatriate employee to enter Djibouti on a visitor's entry visa and apply for a work permit at a later date, although the expatriate may not start work until the Ministry of Labor and Professional Training issues the work permit.

2.2.2 Application Process

An employer applies on behalf of the prospective employee for a work permit pursuant using a standard application form. The expatriate work permit is issued by the Ministry of Labor and National Solidarity, which can refuse to issue the permit if in its opinion the expatriate employee does not possess the requisite qualifications. The work permit is valid for a period of two (2) years and may be renewed repeatedly for a similar duration.

According to the Labor Law, if within fifteen (15) days from receiving the application the Ministry has not issued the expatriate work permit, and no justification for its refusal has been given, then the permit is deemed to have been issued. In practice

however, the time delays extend well beyond the mandated number of days and employers usually do not proceed without express issuance of the permit by the Ministry.

2.2.3 Required Documentation

The following documentation must be submitted along with the application to obtain an expatriate work permit:

- Employment contract; and
- Justification of suitability of expatriate employee's qualifications.

2.3 Driving Licenses

A foreign driving license is valid for three (3) months in Djibouti, and thereafter a local driving license must be issued on the basis of the foreign license. The District of Djibouti issues local driving licenses.

2.4 Costs and Processing Time

VISAS / PERMITS / LICENSE	COST	PROCESSING TIME
Transit Visa – Original Validity 10 Days	3,000 DF	Within the Hour
Entry Visa – Original Validity 1 Month	3,000 DF	Within the Hour
Entry Visa Renewal		
• Initial 3 Months	5,000 DF	2-3 Days
• Additional 3 Months	5,000 DF	2-3 Days
Residency Permit – Original Validity 1 Year	25,000-42,000 DF	1-2 Months
Residency Permit Renewal – 1 Year (Renewable annually without limitation)	25,000-42,000 DF	1 Month
Work Permit – Original Validity 2 Years		1-2 Months
Work Permit Renewal – 2 Years		1-2 Months
Driver's License – 2 Years		1-2 Days

2.5 Analysis

The visa and residency and work permit situation in Djibouti does not pose significant obstacles or costs for foreign investors or their expatriate employees. In general the visa and permit systems function quite satisfactorily and in practice cause few problems. Nevertheless, private sector operators have identified several impediments hindering the pre-investment phase. Some of their observations include:

- The absence of a business visa welcome system constrains investors who arrive in Djibouti willing and able to set up a business venture rapidly.
- There are delays and a lack of transparency in the process for approving expatriate employment contracts and issuing expatriate work permits.
- The redundancy of requiring holders of valid residency permits to have to apply for a new entry visa to re-enter Djibouti.

Recommendations

- Establish a business visa on arrival welcome system.
- Adopt transparent procedures for review of expatriate employment contracts and issuance of expatriate work permits within the fifteen (15)-day period.
- Authorize holders of valid residency permits to re-enter Djibouti without having to apply for a new entry visa.

2.6 Labor Law

The Labor Law was adopted in 1952 and it applies to all employees in Djibouti (irrespective of their nationality), with the exception of civil servants. An employee must be at least sixteen (16) years old, except in the case of an apprentice employee who must be at least fourteen (14) years old.

2.6.1 Hiring Local Labor: The National Employment Service

According to the Law, recruitment of local labor is compulsory. The National Employment Service has the mandate of recruiting local labor for private employers. However, in practice this provision is not applied consistently and is gradually being disregarded.

2.6.2 Employment Contracts

Employment contracts can be either of a definite or indefinite duration, on either a full-time or part-time basis, and they must be evidenced by a written contract in the following cases: (i) apprenticeship; (ii) definite duration exceeding one (1) month; (iii) employment away from the employee's habitual area of residence; (iv) expatriate employment; and (v) probationary employment. Definite duration employment contracts cannot exceed two (2) years and may be renewed only once. Expatriate, seasonal, temporary and occasional workers must be employed pursuant to definite duration contracts. All employment contracts not deemed to be of a definite duration are considered to be of an indefinite duration. There exists a standard model employment contract available from the National Printing Office (copy attached as Annex __ hereto).

2.6.3 Minimum Wage

The guaranteed minimum wage in Djibouti is 18,850 DF (US\$ Equivalent) per month for forty (40) hours of work per week.

2.6.4 Overtime

An employer may request employees to work overtime if necessary, subject to the provisions of applicable collective bargaining agreements. However, total work hours inclusive of overtime cannot exceed twelve (12) hours per day or sixty (60) hours per week, except in highly exceptional circumstances as specified in the Law. Overtime employment results in overtime pay.

2.6.5 Annual Leave

An employee is entitled to two and one-half days (2 ½) of paid annual leave, equivalent to about one (1) month per year.

2.6.6 Sick Leave

Employees are entitled to sick leave as follows: (i) hourly workers, up to fifteen (15) days; (ii) unskilled workers, up to thirty (30) days; (iii) skilled workers up to three (3) months; (iv) employees with more than twelve (12) months of consecutive service, up to three (3) months for the duration of their medical treatment, and up to an additional three (3) months for the duration of their recuperation; and (v) employees with more than five (5) years of consecutive service, up to six (6) months. At the expiration of sick leave, an employee may either regain his/her original employment, or be reclassified into a different employment in the event of physical or mental impairment due to his/her illness, or his/her employment is terminated for medical reasons in accordance with applicable provisions of the Law.

2.6.7 Supplementary Leave

In addition to regular annual and sick leave, an employee is further entitled to the following supplementary paid leave: (i) two (2) days for the employee's wedding ceremony; (ii) three (3) days upon the death of a spouse, child, father or mother; (iii) two (2) days upon the death of a brother or sister; (iv) one (1) day upon the death of a father-in-law or mother-in-law; and (v) one (1) day upon the birth of a child.

2.6.8 Maternity Leave

Female employees are entitled to maternity leave equal to six (6) weeks prior to the presumed date of delivery and eight (8) weeks after the date of delivery. Employment of pregnant employees cannot be terminated, except for material cause unrelated to the pregnancy.

2.6.9 Public Holidays

The official public holidays are: the Islamic holidays of Eid al Fitr, Eid al Adha, the Moslem New Year and the Mouloud; January 1st New Year's Day; May 1st _____ Day; June 27th and 28th National Independence Day; and December 25th Christmas Day.

2.6.10 Severance Pay

In the event of the termination of an employee by dismissal (e.g., when an employee lacks the required specialized skills, or when the employer considers it necessary to reduce the number of workers due to economic or financial reasons), the employee is entitled to the following severance pay: (i) up to two (2) months' salary for the employee in a business establishment employing less than eleven (11) salaried employees; (ii) up to four (4) months' salary for the employee in a business establishment employing between eleven (11) and forty-nine (49) salaried employees; and (iii) up to six (6) months' salary for the employee in a business establishment employing more than forty-nine (49) salaried employees.

2.6.11 Social Security

The Office of Social Protection is responsible for managing the social security contributions. Social security contributions are retained at the source and total 19.7% of an employee's salary, of which the employee contributes 4% and the employer contributes the remaining 15.7%. [The breakdown of the 19.7% total contribution is as follows: 7% for retirement, 5.5% for family allowance, 1% for industrial injuries; 3.5% for interenterprise medical service for the employee; and 2.7% for interenterprise medical service for the employee's family.]

2.6.12 Suspension of Employment

The employment relationship is suspended in the following cases inter alia, without adverse effect upon the employee's right of resuming his/her employment: (i) closing of business establishment due to the employer's military service obligations; (ii) employee's military service; (iii) employee's indisposition due to work accident or professional illness; (iv) pregnant employee's rest period; (v) authorized strikes; (vi) employee absences pursuant to collective bargaining agreements; (vii) employee's exercise of political or workers syndicate responsibilities; (viii) employee's recuperation; (ix) employee's administrative detention up to six (6) months; (x) employee's judicial investigation up to six (6) months; (xi) employee's paid annual leave and leave for education programs; (xii) employee's sick leave up to six (6) months; (xiii) force majeure; (xiv) widow's mourning up to four (4) months and ten (10) days; and (xv) employer's economic or financial difficulties up to three (3) months, as communicated to the Labor Inspector.

2.6.13 Termination of Employment

Definite duration employment contracts may be terminated in the following cases: (i) lapse of definite duration; (ii) for cause; (iii) force majeure; (iv) employer's economic or financial difficulties as communicated to the Labor Inspector; (v) judicial decision; and (vi) mutual written accord of the parties.

Indefinite duration employment contracts may be terminated either by the employee's resignation or for serious material cause to be proved by the employer subject to review by the competent judicial authority.

Advance notice of termination requirements are: fifteen (15) days for hourly workers; one (1) month for unskilled workers; and three (3) months for skilled workers.

All decisions on termination of employment due to economic retrenchment must be communicated in advance to the Labor Inspector.

The wrongful termination of an employment contract entitles the aggrieved employee to monetary damages as determined by the competent judicial authority.

2.6.14 Workplace Safety

The Labor Law sets forth health and safety standards for the workplace that must be observed by the employer.

2.6.15 Records to be Kept by Employer

The employer must keep the following records available on the employment premises: (i) copy of the Labor Law; (ii) employee employment records; (iii) official work hours; and (iv) rules and regulations of the work place.

2.6.16 Labor Inspections

Work premises and all definite duration employment contracts are subject to labor inspections.

2.6.17 Labor Syndicates

The Labor Law authorizes the formation of labor syndicates. From a practical managerial point of view however, labor syndicates are not a factor in Djibouti. According to the Law, if no labor syndicate exists, a worker representative must be appointed.

2.6.18 Settlement of Employment Disputes

There exists two competent authorities for the settlement of employment disputes, namely: the Labor Inspector for the settlement of disputes through conciliation procedures; and the civil chamber of the Court of Djibouti the settlement of disputes through judicial proceedings.

2.6.19 Free Zones Employment Policy

The October 1994 Law on Free Zones exempts free zone enterprises from certain provisions of the Labor Law relative to the guaranteed minimum wage, compulsory recruitment of local labor and employment termination restrictions. Certain exemptions equally apply to social security contribution obligations.

2.7 Analysis

The Labor Law dates back to 1952. In the general course of business labor issues appear to cause certain problems for foreign investors in Djibouti. In addition, it is recognized that poor work ethic culture and standards lead to laxity within the Government administration, and ultimately to substandard client service and work products – a situation which cannot withstand competition in a liberalized export-oriented environment.

The majority of private sector employers interviewed have noted that the Labor Law needs to be updated because in practice its provisions no longer reflect present day economic realities. Specifically, they point to:

- The high cost and inefficiency of local labor as a consequence of the inappropriate wage guarantee, severance pay and suspension of employment provisions (local labor is viewed as “overly protected”).
- Lack of a clear practical definition of skilled and unskilled workers.
- The obligation to recruit local labor and the extensive procedural complications involved in terminating employees even if for cause.
- Djibouti’s higher education system is not conducive to preparing the local workforce for the modern-day technical and managerial demands of the private sector employment marketplace.
- The views of the Djiboutian Association of Employers are not taken into consideration on matters involving the revisions to the Labor Law.

Recommendations

- Revise the guaranteed minimum wage, severance pay and suspension of employment provisions of the Labor Law.
- Reform employment recruitment, retirement and termination procedures.

- Authorize free employee recruitment without recourse to the National Employment Service.
- Promote appropriate technical and managerial education and training of the local workforce for private sector employment.
- Establish effective arrangements for regular consultations with the Association of Employers on labor issues.

3. LOCATING

While Djibouti is strategically positioned because of its geographical location on the African continent bordering Ethiopia on the west and southwest, Eritrea on the northwest and Somalia on the southeast, between the Red Sea and the Indian Ocean, and at the cross roads between Europe and Asia, and Africa and the Middle East, it occupies barely 23,000 square kilometers of mostly arid undeveloped land (of which less than 1% is arable land), including 370 kilometers of coastal territory.

Historically Djibouti has followed the civil law system and its administrative organization and procedures are based on the French model. Land ownership is heavily vested in the State and local collectivities, including ethnic tribal lands. These public land holdings are classified into transferable property interests (comprising the private property of the State and local municipalities) and non-transferable property interests (comprising the public property of the State, local collectivities and ethnic tribes).

This Chapter provides an overview of typical locating procedures and the range of processing times and costs a typical investor is likely to encounter. The process of site location and development, including land identification, land acquisition or leasing, construction permits, certificates of conformity and utility hook-ups, altogether is a comparatively difficult process for the typical investor. Site location and development matters are further complicated by several factors, including: not all of Djibouti's land has yet been surveyed; most land is officially owned by the State; there is a shortage of land already connected to public services; there is no viable commercial land mortgage system; basic infrastructure is not widely available; private real estate transactions are subject to prior governmental approval; and the current land titling and title transfer system is administratively complex.

3.1 Access to Land

The contact information for Government agencies responsible for land access matters is as follows:

Prime Minister
P.O. Box 2086
Djibouti
Telephone: 35-12-80
Facsimile: 35-12-80

Ministry of Presidential Affairs
Address:
Djibouti
Telephone:
Facsimile:

Ministry of Economy and Finance
P.O. Box 13
Djibouti
Telephone: 35-02-97
Facsimile: 35-65-01

Ministry of Public Works, Urbanism and Housing
P.O. Box 11
Djibouti
Telephone: 35-31-50 / 35-08-46
Facsimile: 35-60-34

The following comprise the principal technical documents governing site development and usage:

Master Urban Development Plan for the City of Djibouti
Master Urban Development Plan for the Secondary Cities of Djibouti
Zoning Plans
Land Use Plans

Several Government entities are involved in land access and urban development matters, as illustrated in the table below:

Entity	Function
Department of Central Services (Ministry of Public Works, Urbanism and Housing)	<ul style="list-style-type: none"> Regulate public land procurement matters Regulate land related professions (architects, engineers and geometers) Manage the Training Center for Construction and Public Works
Department of Urbanism and Housing (Ministry of Public Works, Urbanism and Housing)	<ul style="list-style-type: none"> Formulate national urban development policy and supervise its implementation Propose and supervise urban infrastructure and construction works and the zoning and parceling of land Issue technical directives on applications for land acquisition Inspect building permits Oversee urban development and housing projects Enforce urban development and construction regulations Supervise construction and maintenance of public buildings
Department of Public Works (Ministry of Public Works, Urbanism and Housing)	<ul style="list-style-type: none"> Execute and maintain infrastructure works Maintain public access properties

Land Registry (Ministry of Economy and Finance)	<ul style="list-style-type: none"> • Update and maintain land register • Approve applications for land acquisition • Determine land boundaries • Land valuation • Sell and auction public land • Collect land registration and recordation fees • Propose draft laws and regulations on land related matters (registration, recordation, sale, lease, regularization, etc.)
Commission on Land Property	<ul style="list-style-type: none"> • Approve applications for land acquisition
President of the Republic	<ul style="list-style-type: none"> • Sign Cabinet of Ministers Decision authorizing registration of acquired land
Commission on Real Estate Transactions	<ul style="list-style-type: none"> • Approve real estate sales transactions between private parties in respect of real estate property on the private commercial real estate market
Secretary General of the Government / Minister in Charge of Presidential Affairs	<ul style="list-style-type: none"> • Sign Decision approving private real estate transactions conducted between private parties
District Commissioners	<ul style="list-style-type: none"> • Issue construction permit for site development within corresponding district • Regulate access to water sources within District • Sanitation matters within District
Ministry of Interior	<ul style="list-style-type: none"> • Clear approval of issuance of construction permits
Office of Urban Projects (Inter-Ministerial Committee for Urban Projects)	<ul style="list-style-type: none"> • Manage and supervise implementation of urban development projects
Djibouti Real Estate Company	<ul style="list-style-type: none"> • Acquire, develop and parcel land • Develop, construct, acquire, sell, lease or lease with option to buy land and fixed assets • Contract and execute agreements with the State or local collectivities to develop, construct or manage buildings and land • Financial intermediary for housing finance entities
Djibouti Development Bank	<ul style="list-style-type: none"> • Urban development and housing mortgage finance • Finance urban development and housing feasibility studies on behalf of the State, local collectivities and public enterprises
Djibouti Urban Development Fund	<ul style="list-style-type: none"> • Urban development project finance
Real Estate Investment Fund	<ul style="list-style-type: none"> • Housing finance

3.2 Land Acquisition and Registration

Law No. 173/AN/91/2eL of October 10, 1991 governs the disposition of State private property, including State private land that consists of: vacant land, land purchased by the State, and land donated to the State. State private land is classified into urban and rural land. Law No. 177/AN/91/2eL on the Organization of Land Ownership regulates

access to land, including land acquisition and registration/recordation. Foreign investors, whether they are individuals or business entities, are permitted to own commercial land, but they are not permitted to own residential land (including residential buildings). Foreign investors can rent residential buildings from Djiboutian nationals however.

The administrative procedures for acquiring land differ depending on whether or not the land parcel is already in the private commercial real estate market. For land not yet placed in the private commercial market, the procedure is as follows:

- The investor applies, via individual request letter, to the Land Registry at the Ministry of Economy and Finance for a land parcel, irrespective of whether the investor has pre-identified the parcel. There is no standard application form.
- Land Registry officials confirm the availability of the pre-identified land parcel, or propose a land parcel to the investor, as the case may be.
- If the identified land parcel is not already the subject of a prior expression of interest or designated usage, or if it is not covered by a Zoning Plan, the Land Registry refers the application to the Department of Urbanism and Housing for its technical directive on the consistency of the projected usage with the relevant Master Urban Development Plan, before submitting the application to the Commission on Land Property for approval.
- In the event of an unfavorable technical directive from the Department of Urbanism and Housing, the investor's application is rejected.
- In case of a parcel of land already covered by a Zoning Plan, the Land Registry submits the application directly to the Commission on Land Property for approval. The Commission meets every 2-3 months, and is chaired by the Secretary General of the Government and its membership comprises: the Director of Urbanism and Housing, the Director of Public Works, the District Commissioner, the Director of Planning and the Director of the Djibouti Real Estate Company.
- If the Commission approves the application, then it proceeds to assess the value of the land and the investor is informed accordingly.
- Land Registry officials prepare a draft Cabinet of Ministers Decision (Arrêté du Conseil des Ministres).
- The Cabinet of Ministers Decision is submitted to the President of the Republic for signature and, upon its signature, is published in the Official Journal.
- Once the investor pays the sale price and applicable registration fees, the land parcel is registered in the Land Register and is assigned an official reference number.

- The Land Registry issues a temporary registration certificate, and a temporary land title is delivered to the investor against receipt of proof of payment of the sale price and registration fees.
- With the temporary land title the investor can apply for a Construction Permit.
- The investor is required to develop the land within a period of 2 years, subject to outright forfeiture by the State without reimbursement for failure to comply with this requirement.
- Upon satisfactory development of the land, within the mandated 2-year period, the Department of Urbanism and Housing issues a Certificate of General Conformity attesting the land has been developed in accordance with the construction plan previously submitted with the investor's application for a Construction Permit.
- On the basis of the Certificate of General Conformity, the investor applies to the Land Registry for recordation of a permanent land ownership interest and issuance of a permanent land title.
- The Land Registry submits the investor's application for issuance of a permanent land title to the Commission on Land Property.
- Upon approval by the Commission of an application for issuance of a permanent land title, Land Registry officials prepare a draft Cabinet of Ministers Decision (Arrêté du Conseil des Ministres) awarding the permanent land title.
- The President of the Republic signs the Cabinet of Ministers Decision awarding the permanent land title.
- The Land Registry issues to the investor the permanent land title (fully transferable) against receipt of payment of applicable fees.

3.3 Acquiring State Private Land

In addition to the administrative procedural requirements described above relative to land acquisition and registration, the following supplementary requirements apply in the case of acquisition of State private urban and rural land.

3.3.1 State Private Urban Land

State private urban land covered by a Zoning Plan, and thus appropriate for construction purposes and already registered in the name of the State, as well as State public land reclassified as State private land and equally covered by a Zoning Plan, are available to investors at the Land Registry through: sale, grant, concession, direct contracting, or direct order of the Minister of Economy and Finance. Investors are required to apply for such land by filing an individual request (no standard forms are available) with the Land Registry in accordance with the administrative formalities described above. Upon approval of the request, the terms and conditions for the transfer of land interest are incorporated into the ownership transfer instrument. By law, such

terms and conditions must include the following, and a permanent land title may be issued only after these terms and conditions are fulfilled:

- Investor must abide by the provisions of Law No. 173/AN/91/2eL.
- Transfer of ownership remains temporary until the land has been developed, as certified by Land Registry officials.
- Land must be developed within a prescribed time period (usually 2 years).
- In case of sale, the agreed price and terms of payment of the sale price.
- In case of a concession, the amount and terms of payment of royalties.
- Prohibition on a subsequent transfer of ownership or leasing of the land until the land has been developed, unless otherwise authorized by Land Registry officials.
- Investor's failure to develop the land within the prescribed time period causes the land to revert back to the State, unless such time period is extended upon order of the Minister of Economy and Finance.

In the case of vacant land parcels not covered by a Zoning Plan, and therefore not yet registered in the name of the State, these parcels can be made available to investors on a temporary basis pursuant to a temporary occupancy permit delivered upon order of the relevant District Commissioner. Such permits set forth the boundaries of the land parcel, the obligations of the investor, the amount of royalties or fees and terms of payment and the prohibition against subleasing. A temporary occupancy permit is subject to revocation at any time.

3.3.2 State Private Rural Land

State private rural land is made available to investors under temporary concession arrangements by decision of the Council of Ministers upon the recommendation of the Minister of Economy and Finance. Interested investors are required to apply by filing an individual request letter (no standard application is available) with the Minister of Economy and Finance, through the intermediary of the District Commissioner for the District where the rural land is located.

The application must contain the following information:

- Investor's name.
- Investor's address, place and date of birth.
- Projected use of the land.
- Dimensional sketch indicating location and dimensions of the land.
- In case of a commercial entity, a certified copy of its Statutes together with the power of attorney of the applicant.

Upon receipt of the application the District Commissioner establishes a specifications sheet, based on the projected use of the land and local conditions, for

transmittal to the Minister of Economy and Finance. The application is approved, with or without further modifications, by the Minister of Economy and Finance upon the recommendation of Land Registry officials, and the investor is informed accordingly. Upon acceptance by the investor, the application is published in the Official Journal. In the event the rural land in question is not yet registered in the name of the State, Land Registry officials proceed with the necessary registration procedures on behalf of the State. A rural land concession only confers surface rights and thus all subsurface rights are retained by the State. Moreover, the State reserves the absolute right to repossess the rural land at any time, subject only to reimbursement of royalties paid by the investor.

3.4 Acquiring Private Land

All real estate transactions between private parties on the private commercial real estate market are subject to the prior authorization of the Commission on Real Estate Transactions, established pursuant to Ordinance No. 79-002 of January 11, 1979. The membership of this Commission is the same as that of the Commission on Land Property. The procedures for acquiring private land through transactions on the private commercial real estate market is as follows:

- The Notary prepares the proposed real estate sales contract and applies to the Land Registry for authorization to conclude the real estate sales transaction.
- The application for authorization to conclude a private real estate sales transactions must be prepared in the French language, and must include the following information and attach certified copies of the national identity cards of the parties to the transaction:
 - Names and addresses of the parties.
 - Succinct description of the real estate property.
 - Estimated rental value of the real estate property.
 - Estimated sales market value of the real estate property.
 - Details on leases concluded during the previous 3 years for the rental of the real estate property.
- Land Registry officials verify the accuracy of the application and after confirming the recordation of the subject real estate submit the application to the Commission on Real Estate Transactions for approval.
- Land Registry officials prepare a draft Decision (Arrêté) authorizing the real estate sales transaction.
- The Secretary General of the Commission on Real Estate Transactions endorses the Commission's approval of the application, and the Decision authorizing the real estate sales transaction is submitted for signature by either the Director of the Cabinet of the President or the Minister in Charge of Presidential Affairs.

- Upon signature of the Decision authorizing the real estate sales transaction, Land Registry officials transmit a copy of the Decision to the Notary for execution of the real estate sales contract.
- The Notary transmits the executed real estate sales contract to the Land Registry for registration together with payment of applicable fees.
- Upon registration of the real estate sales contract, the Land Registry upon payment of applicable fees records the new ownership title.
- Land Registry officials issue the new ownership title to the Notary for delivery to the investor-purchaser.

3.5 Cost and Processing Time

Procedure	Cost	Time
Approval of application for acquisition of a land parcel from the State	500 DF registration stamp fee	3-9 Months
Issuance of temporary land title	[5% of the assessed value of the land parcel]	1-3 Months
Issuance of permanent land title	2% of the assessed value of construction, plus 2,000 DF fee	1-2 Months
Approval of sales transaction between private parties for acquisition of real property on the private commercial real estate market	5% sales price (first sale) 10% sales price (second sale) Plus 2,000 DF application registration fee and 500 DF registration stamp fee	1 Month
Recordation of new ownership interest	2% sales price	1-2 Weeks

3.6 Leasing of State Land and Facilities

Leasing of State land and facilities is subject to direct negotiations and contracting procedures with the relevant Government authority on terms and conditions to be agreed directly between the parties. At present, no specific legislation or regulation governs the leasing of State land or facilities.

3.7 Real Estate Development and Housing Infrastructure Finance

Commercial real estate and infrastructure project finance is still in its infancy. Two local institutions operate in this field: the Djibouti Real Estate Company and the Djibouti Development Bank.

The Djibouti Real Estate Company was established in 1956 (reorganized in 1989 and 1994), to assist in urban and rural development of land belonging to the State and local collectivities. Its principal objective is to acquire and develop such land and related infrastructure facilities for commercial investment use. While the Djibouti Real Estate Company initially experienced a certain degree of success in fulfilling its objective, in the past few years several of its projects encountered difficulties and, as a result, its financial condition continues to deteriorate significantly. Its operations have been curtailed.

The Djibouti Development Bank was established in 1982 (reorganized in 1991 and recapitalized in 1992). Its principal objective is to provide concessionary financing for urban development and housing. The Djibouti Development Bank is also experiencing grave financial difficulties and its operations have been suspended.

3.8 Analysis

Due to scant natural resources and limited infrastructure, the cost of factors of production in Djibouti is relatively high. The cost of factors of production combined with a heavily centralized, multi-layered and complicated administrative system make land location (and site development) one of the principal constraints faced by the typical investor. The absence of an overall comprehensive legal and regulatory framework governing land acquisition (and site development) activities further aggravates the situation.

Based principally on interviews conducted with private sector entrepreneurs and public officials, the following represent the principal constraints faced by the typical investor:

- The absence of a comprehensive Urbanism Law increases investor risks and discourages business start-ups.
- Existing Zoning Plans and Land Use Plans are inconsistent with the recently adopted Master Urban Development Plans.
- Urban land management administrative process is costly and time consuming.
- There is an acute shortage of reasonably priced readily available land for investment purposes, particularly for industrial estates and tourism investment projects.
- Absence of a viable land mortgage system.

- The current land acquisition and registration/recording process is complicated, overly centralized, multi-layered, and lacks standardized application forms. The multiplicity of Government agencies and commissions involved in the process makes it prone to abuses.
- There are no impartial avenues for appealing rejections of land acquisition applications.
- Land acquisition and registration/recording procedures are difficult to determine in advance and too complex to understand by the typical investor.
- Assessments of land values by a Government commission (the Commission on Land Property) do not usually reflect the true value of land.
- Involvement of a Government commission (the Commission on Real Estate Transactions) in private commercial market transactions is unjustified and unnecessary.
- Absence of clear guidelines on leasing of State land and facilities promotes favoritism and irregularities.
- Poorly managed urban development threatens the architectural heritage of the old part of Djibouti City.
- The inactivity of the Djibouti Development Bank has an adverse effect on effective urban development.

Recommendations

To help resolve these constraints, the following actions are recommended:

- Adopt a comprehensive Urbanism Law to provide predictability to investors.
- Update the Zoning Plans and Land Use Plans in a manner consistent with the recently adopted Master Urban Development Plans.
- Improve cost effectiveness and time efficiency of the urban land management process through organizational decentralization, procedural simplification and privatization of selected urban development related services (construction, maintenance, planning studies, commercial services, etc.).
- Increase the amount of reasonably priced readily available equipped land for commercial projects, and establish a special regime for industrial estates and tourism investment projects.
- Develop a viable land mortgage system.
- Reform the land acquisition and registration/recording process through decentralization, reduction of the number of Government agencies and commissions involved, streamlined procedures and introduction of standardized application forms.

- Provide transparent appeal process for rejected land acquisition applications.
- Prepare and disseminate a practical handbook on land acquisition and registration/recordation procedures suitable for use by typical investors.
- Develop a market-based system for land valuation.
- Abolish the Commission on Real Estate Transactions and authorize private parties to transact freely on the open private commercial real estate market.
- Adopt a regulatory framework for leasing of State land and facilities.
- Promote the preservation of the architectural heritage of the old part of Djibouti City.
- Resolve the status of the Djibouti Development Bank through its restructuring, refinancing and development of a secondary refinancing market.

3.9 Site Development

The contact information for Government agencies responsible for site development matters is as follows:

Ministry of Public Works, Urbanism and Housing
P.O. Box 11
Djibouti
Telephone: 35-31-50 / 35-08-46
Facsimile: 35-60-34

Ministry of Economy and Finance
P.O. Box 13
Djibouti
Telephone: 35-02-97
Facsimile: 35-65-01

3.10 Rezoning of Land

At present, there exists no specific regulation governing the rezoning of land. Requests for rezoning of land, or altering permissible land usage, are handled on an informal ad hoc manner directly with the District Commissioner for the District where the land parcel to be rezoned is located.

3.11 Construction Permits

All new constructions and material alterations to existing constructions require a Construction Permit. The application for a Construction Permit must be filed with the Department of Urbanism and Housing at the Ministry of Public Works, Urbanism and

Housing. The application and all accompanying documents, as attested by a duly qualified architect, must be filed in 6 separate copies.

The documents required for obtaining a Construction Permit consists of the following:

- A standard application form available from the Department of Urbanism and Housing at the Ministry of Public Works, Urbanism and Housing.
- The temporary or permanent land title as issued by the Land Registry at the Ministry of Economy and Finance.
- A site plan at a scale of 1/1000 or 1/500 per the cadastral survey.
- A situation plan at a scale of 1/200 or 1/100 indicating: position; boundaries; contours at a gradient in excess of 5%; layout and height of proposed constructions and alignments; location and height of existing structures to be maintained or demolished.
- Architectural plans at a scale of 1/100 or 1/50, showing the fixtures and basic movable items for each level.
- A foundations plan at 1/50 scale.
- An electricity and drainage plan at the scale of the architectural plan.
- A septic tank plan showing a septic tank of a model approved by public health authorities.
- Detailed descriptive specifications of the construction works.
- Estimated cost of materials and contracted construction works.
- Estimated cost of completion of construction works.

The Department of Urbanism and Housing retains the right to require supplementary documents and information. The Department transmits a copy of the application to each of the following Government agencies for their separate technical review and comments: Land Registry; District Commissioner of the District where the land parcel is located; Health Authorities; Civil Protection Authorities; and Housing Control (Subdivision Contrôle Logement et Assistance à la Maîtrise d'Ouvrage – SCLAMO).

Pursuant to Regulation No. 73-1580 SG/CG of December 31, 1973, , the procedures for reviewing a Construction Permit application are as follows:

- The period for reviewing an application for a Construction Permit is limited to a maximum of 60 days, from the date the investor submits the application.
- In the event a response is not received within the prescribed time period, the investor can petition directly the Minister of Public Works, Urbanism and Housing.

- In case the Minister fails to respond within 15 days from receipt of the investor's petition, the construction permit may be deemed to have been issued.
- Once the different agencies consulted have given their favorable opinion and/or furnished their eventual observations, the authorization for issuance of a construction permit is prepared in 18 copies.
- The permit is delivered by the District Commissioner upon receipt of evidence of payment of applicable fees by the investor to the Ministry of Economy and Finance.
- Construction works can commence once the Construction Permit has been issued.

3.12 Simplified Construction Permit

Simplified procedures apply to the issuance of construction permits for State private land covered by specific national urban development projects. No regulation governs such simplified procedures.

3.13 Certificate of General Conformity (Occupancy and Operating Permit)

Upon completion of construction, the investor must file an application for a Certificate of General Conformity with the Department of Urbanism and Housing. The investor must obtain this Certificate prior to the occupancy or commercial use of the construction. A special Departmental Commission is formed to review the application, and the investor is apprised of the date set for the field inspection visit within the following month. Within a month after the field visit the Commission, if satisfied, issues a written statement granting an authorization to start using and operating the completed construction.

It should be noted that all constructions in Djibouti must satisfy the requirements of the seismic regulations in force. A statement of conformity with these norms is required to obtain the Certificate of General Conformity.

3.14 Costs and Processing Times

Procedure	Cost	Time
Interagency review and approval of application for Construction Permit		8-10 Weeks
Issuance of Construction Permit	2.5% of the assessed value of the construction works	4-5 Weeks
Issuance of Certificate of General Conformity		4-8 Weeks

3.15 Analysis

Based principally on interviews conducted with private sector entrepreneurs and public officials, the following represent the principal constraints faced by the typical investor:

- Site development requirements are difficult to determine in advance.
- The current process for obtaining construction permits is unnecessarily complicated and too time-consuming, and the multiplicity of Government agencies involved in the process makes it prone to abuses.
- Public authorities do not abide by the Regulation's express provision that a construction permit "may be deemed to have been issued" in the event of non-response to an investor's petition within the prescribed period of time.
- Absence of clear guidelines on rezoning of land.
- Lack of transparent guidelines on eligibility for simplified construction permits.

Recommendations

To help resolve these constraints, the following actions are recommended:

- Prepare and disseminate a practical handbook on site development requirements and procedures suitable for use by typical investors.
- Reform the process for obtaining construction permits in a manner consistent with international best practices.
- Enforce the "may be deemed to have been issued" provision of the Regulation in the event of non-response to an investor's petition within the prescribed period of time.
- Adopt regulations on rezoning of land.
- Regulate and generalize the use of simplified construction permits.

3.16 Utilities

Electricity, water and telephone services in Djibouti are provided by public utility companies: Electricité de Djibouti ("EDD") is responsible for the provision of electricity; Office National des Eaux de Djibouti ("ONED") is responsible for the provision of water; and Djibouti Télécommunications ("DT") and Société des Télécommunications Internationales de Djibouti ("STID") are responsible for telephone service.

The contact information for EDD, ONED, DT and STID is as follows:

Ministry of Industry, Energy and Mining
Box 1010
Djibouti
Telephone: 35-03-40
Facsimile: 35-43-96

Electricité de Djibouti

Address: Boulevard de la République, P.O. Box 175

Djibouti

Telephone : 35-28-91

Facsimile : 35-43-96

Office National des Eaux de Djibouti

Address : Boulevard de la République, P.O. Box 1914

Djibouti

Telephone : 35-31-07 / 35-51-14

Facsimile : 35-44-23

Ministry of Transport and Telecommunications

Address: Palais du Peuple, P.O. Box 2501

Djibouti

Telephone : 35-09-90

Facsimile : 35-59-75

Djibouti Télécommunications

Address : Boulevard de la République, P.O. Box Direction de Djibouti Télécom

Djibouti

Telephone : 35-06-69 / 35-11-10

Facsimile : 35-57-57

Société des Telecommunications Internationales de Djibouti

Address : Boulevard George Pompidou, P.O. Box 2031

Djibouti

Telephone: 35-12-87 / 35-33-38

Facsimile: 35-01-09

3.17 Electricity Hook-up

EDD manages the country's electric utility facilities with a total installed capacity of 90 Mwh and current production of 45 MwH. The existing demand, estimated at 80 Mwh, is not being met, due to high production costs (39 DF per kWh) and frequent breakdowns of EDD's existing equipment most of which is obsolete. By EDD's own admission, its facilities operate at barely one-third (1/3) capacity. Daily multiple blackouts occur frequently, especially during the summer.

Most businesses and upscale residences in Djibouti dispose of their own individual stand-alone electricity generators to compensate for EDD's electricity generation shortages. EDD is in the process of acquiring new generators and thus the situation is expected to improve starting June 2000. The future potential of other sources

of energy is also under consideration, such as solar and wind energy, geothermal energy and the interconnection of the Djiboutian and Ethiopian power systems.

The application process for the provision of electricity service to existing facilities already connected to the grid is relatively simple. The investor must file a standard application with EDD, and provision of service is usually assured within 3-4 days. At present, reliable off-grid electricity is not available, except through individual stand-alone generators.

The cost of electricity is as follows:

Cost of Electricity Per KWH (1 US\$1=177.21 DF)		
Domestic Rate	Block 1: 37 DF (0.20 US\$)	Block 2: 35 DF (0.19 US\$)
Commercial Rate	46 DF (0.26 US\$)	39 DF

3.18 Water Hook-up

Water connections and service are provided by the State utility company ONED. Almost all of Djibouti's water supply is sourced from underground wells. Most of these wells are old and close to exhaustion. Water production amounts to about 39,000 m3 per day, which is sufficient for the country's demands during winter, however consumption increases to 45,000 m3 per day during the summer and supply is not always sufficient.

The application process for water connection service to unconnected sites is relatively simple, although connection times vary from 10 to 15 days depending on the particular location. An investor wishing to become connected to water service must apply to ONED with the following required documentation:

- Standard application form available from ONED.
- Construction Permit.
- Approved construction plan.

Once it receives the application, ONED prepares a quotation for the required civil works that commence after the investor pays the applicable fees. ONED carries out the connection works itself.

The application process for the provision of water service to existing and already connected sites is equally relatively simple. The standard application must be filed with ONED and provision of service is usually assured within 4-7 days after payment of applicable fees.

The cost of water is as follows, billable bi-monthly by ONED:

Cost of Water (1 US\$1=177.21 DF)

Domestic Rates	00-30 M3: 62 DF (0.35 US\$) 31-80 M3: 102 DF (0.57 US\$) 81-120 M3: 142 DF (0.80 US\$) Over 121 M3: 154 DF (0.87 US\$)
Commercial Rate	150 DF (0.84 US\$) Per M3

3.19 Telephone Hook-up

Djibouti possesses one of the most modern telecommunication systems in Africa, connected by satellite and cable to the international automatic networks for telephone, telex and facsimile. Both the Sea-Me-We 2 (relaying France-Mediterranean basin-India-Singapore-Hon Kong) and the Sea-Me-We 3 (relaying Germany-Mediterranean Basin-India-Korea-Australia) fiber optics telecommunication lines pass through Djibouti.

Pursuant to Decree No. 99-0170/PR/MCC of September 20, 1999, as of December 31, 1999 DT is responsible for providing both domestic and international telephone service. However, at present STID continues to provide international communications services. International access via IDD is fast and efficient and the sound of lines is satisfactory and disconnections are rare. However, international calls are unreasonably expensive. (Calls to the United States cost 840 DF per minute – equivalent to US\$ 5.15 per minute.)

The application process for the provision of telephone service is straightforward. The investor must file a standard application with DT and STID (for international calls). After receiving an application, DT/STID surveys the location and prepare a quotation. Installation of telephone lines is assured within 2 weeks, and extension of service to an existing line is usually assured within 2-3 days, after payment of applicable fees. The connection fee is approximately 20,000 DF, although it can vary by location depending on the distance from the main switchboard. Mobile telephone as well as Internet service are also available.

Telephone service rates are as set forth in the table below:

Telephone Service Rates (per unit) (1 US\$1=177.21 DF)		
Domestic Rate	Block 1: 37 DF (0.20 US\$)	Block 2: 35 DF (0.19 US\$)
Commercial Rate	46 DF (0.26 US\$)	
International Rate	525 DF (3 US\$)	

Mobile telephone service rates are as set forth in the table below:

Mobile Telephone Service Rates (1 US\$1=177.21 DF)	
Mobile Telephone Line	50,000 DF
Monthly Subscription (per line)	9,000 DF
Initial Free Air Time	35 Minutes

Internet service rates are as set forth in the table below:

Internet Service Rates (1 US\$1=177.21 DF)	
Internet Line Subscription	5,000 DF
5 Hours (exclusive of air time)	6,000 DF/Monthly
10 Hours (exclusive of air time)	10,000 DF/Monthly
20 Hours (exclusive of air time)	20,000 DF/Monthly

3.20 Processing Time

Procedure	Time
Electricity connection	3-4 Days
Water connection	4-7 Days
Telephone connection	2-3 Days

3.21 Analysis

The majority of private sector entrepreneurs interviewed noted that the high cost of electricity, water and telephone services, coupled with the unreliability and deteriorating quality of the electricity and water services, represents a distinct disincentive to business start-ups and investments (particularly foreign investments). These entrepreneurs also expressed their frustration with the fact certain large consumers are not current on payment of their utility bills. In addition, they questioned the justification for requiring the issuance of construction permits and other site development related licenses as pre-requisite to receiving electricity, water and telephone services, noting that the provision of such services is often essential for early site development.

While the principal utility providers (EDD, ONED and OPT/STID) arguably dispose of adequate equipment (with the notable exception of EDD) and personnel, their public enterprise management organization and their tariff rate structures are excessive and insufficiently flexible to accommodate the particular needs of commercial and industrial business operators. EDD's financial condition is precarious especially due to the large outstanding receivables owed to it by the State, public enterprises and others.

Electricity: Blackouts are a daily occurrence, and, on average, the monthly cost of electricity corresponds to almost 1/4 of the price of a single night's stay in a hotel.

Water: Water availability in the City of Djibouti is becoming a matter of increasing concern, because of the gradual decrease in the level of underground water and the deteriorating quality of the water. Water is being pumped from deeper within underground wells wherein lies salty seawater and, therefore, the quality of water distributed by ONED is deteriorating. At present, water salinity stands at 1,900 mg/l, whereas by the standards of the World Health Organization (WHO) it should be 1,500 mg/l. At least two options are currently under consideration: (i) drilling and pumping of new water wells located at 150 kilometers (kms) west of the City of Djibouti, however

the necessary feasibility studies are yet to be carried out; or (ii) construction of a desalination plant. ONED is institutionally weak and its financial condition is precarious.

Telephone: International telephone rates are prohibitively expensive in Djibouti.

Recommendations

To help resolve these constraints, the following actions are recommended:

- Restructure, legally and financially, each public utility company, including through the privatization of their respective operations, to improve their efficiency in order to significantly reduce production costs and consumer tariffs.
- Introduce greater flexibility in the setting of electricity, water and telephone tariff rates for commercial and industrial entities, and apply preferential rates for specific commercial and industrial sectors of the economy so as to encourage corresponding private sector investments.
- Require EDD to: (i) bill large consumers of electricity monthly and other consumers bi-monthly; (ii) enforce a policy of discontinuing the supply of electricity to any customer in arrears for more than 3 months; and (iii) adopt a program to limit the illegal appropriation of electricity (system losses).
- Require ONED to: (i) bill large consumers of water monthly and other consumers bi-monthly; (ii) enforce a policy of discontinuing the supply of water to any customer in arrears for more than 3 months; (iii) adopt a program to limit the illegal appropriation of water; and (iv) formulate a long-term program for the development of the non-urban water sector.
- Implement a program to instill customer service culture at each service utility.

3.22 Mining Licenses:

Mining is conducted under the Mining Law No. 66/AN/94/3rd of December 7, 1994. The issuance of mining licenses (in addition to otherwise required business registration and operating permits and foreign investment approvals) follows a three-step administrative procedure:

First Step: Investors interested in conducting mining activities must send a letter of intent to the Minister of Industry, Energy and Mining. This letter must describe the nature of the proposed mining project, the investor's technical and financial qualifications and the project's investment and financing plan. Review of an investor's letter of intent can take up to several months.

Second Step: Once the Minister of Industry, Energy and Mining approves the investor's letter of intent, the Ministry prepares a mining agreement for negotiation between the Ministry (State) and the investor. This agreement is a standard contract internationally accepted. Once the agreement is concluded, the Ministry issues an exploration (prospecting) license usually valid 1-2 years and possibly up to 5 years.

Third Step: Upon achievement of favorable exploration results, the Ministry, at its discretion or pursuant to the terms of the agreement, will issue an exploitation license normally valid at least 3 and up to 5 years. The exploitation license may be renewed.

3.23 Analysis

The current system vests inordinate discretionary powers in the process of review of investor letters of intent for mining licenses. A number of investors expressed their frustration with the absence of a credible avenue for appealing denial of their letters of intent. Moreover, under the current system, investors cannot obtain both an exploitation and exploration license simultaneously. The existing process for issuing mining licenses to investors is problematic to the extent that there exists an obvious uncertainty whether an exploitation license will be issued, even when the investor has had positive results during the exploration (prospecting) phase. Several investors indicated they have no real assurance that a license for the exploitation phase will be granted and, if so, on what terms. The Government should consider the impact of the current process on the willingness of future investors to invest in the exploration (prospecting) stage of their proposed mining industry activities.

Recommendations

To help resolve these constraints, the following actions are recommended:

- Establish a more participatory and transparent system for reviewing investor letters of intent for mining licenses.
- Adopt a process for the automatic issuance of mining industry exploitation permits immediately upon the favorable outcome of the exploration stage.

3.24 Environmental Clearance:

The contact information for the Government agencies responsible for environmental matters is as follows:

Ministry of Environment, Tourism and Handicrafts
Address: P.O. Box 11
Djibouti
Telephone: 35 00 06
Facsimile: 35 18 16

National Committee for the Environment
Address: P.O. Box 2344
Djibouti
Telephone: 35 15 59
Facsimile: 35 48 37

Technical Committee for the Environment
Address: P.O. Box 2344
Djibouti
Telephone: 35 15 59
Facsimile: 35 48 37

Institut Supérieur d'Etudes et de Recherche Scientifique et Technique
Address: P.O. Box 486
Djibouti
Telephone: 35 27 95
Facsimile: 35 48 12

At present Djibouti does not have a legal or regulatory framework governing environmental matters, and hence there are no overall environmental standards by which the impact of an investor's project can be evaluated. The very few rules that do exist are sector specific, such as in the case of the water sector (inspections), and are not enforced on a regular basis. As such, investors are not required to either conduct project environmental impact assessments or obtain environmental clearances. While a National Committee for the Environment (chaired by the Prime Minister) and a Technical Committee for the Environment (chaired by the Prime Minister's technical advisor) have been established to oversee environmental matters, these matters continue to be handled on an ad hoc and irregular manner. The Institut Supérieur d'Etudes et de Recherche Scientifique et Technique (ISERST) is a research institute with no regulatory or enforcement powers.

Certain investors expressed their concern that, even if their projects are approved in accordance with current environmental practices, in the future they may not comply with regulations implemented under new environmental legislation. Others observed that it is much more cost effective to install pollution control equipment during plant construction than to install it after the fact.

3.25 Analysis

The absence of legislation and administrative procedures regulating the environment and setting forth clear environmental standards to be observed by investors is a source of uncertainty for prospective investors, who otherwise risk subjecting themselves unknowingly to possible future liability. This risk of future liability discourages investments (particularly foreign investments). By the same token, the lack of specific guidelines governing environmental impact assessments for investor projects increases the probability that Djibouti's environment will be affected adversely.

Recommendations

- Formulate a long-term national environmental protection program.
- Adopt a comprehensive Environmental Law for the protection and promotion of the environment, including guidelines on project environmental impact assessments, consistent with internationally accepted standards.
- Apply transparent administrative procedures for application of the Environmental Law.
- Establish a national environmental monitoring and control agency.

4. BUSINESS REGISTRATION, GOVERNMENT APPROVALS AND REPORTING

This chapter describes the processes associated with the various registrations and approvals for business registration and operation. It includes sections on Company Formation, Tax Registration and various license requirements.

4.1 Business Start-up: Company Formation and Registration

There have been several reports documenting the procedures of company formation and registration in Djibouti, namely a guide published by the Chamber of Commerce¹ in 1994, and a 1998 study² by UNOPS.

Djibouti has not established any restrictions regarding the nationality of private enterprise owners. Most companies fall into the following categories:

Private Enterprises (Entreprise Individuelle)

Limited Liability Company (Société à Responsabilité Limitée SARL)

Most frequently adopted structure. One million DF minimum capital requirement. At a minimum must have two share holders. The maximum number of allowed shareholders is 50.

Public Corporation (Société Anonyme SA)

Five million DF capital requirement. At a minimum must have seven shareholders.

Other structures allowed include private companies with limited liability (Entreprise Unipersonnelle à Responsabilité Limitée), Free Zone companies (Société Anonyme en Zone Franche), and Export Processing companies (Entreprise Franche).

¹ "Guide sur les Formalités Administratives pour la Création et le Fonctionnement des Entreprises", Chambre Internationale de Commerce et d'Industrie de Djibouti, Service Information Commerciale, Décembre 1994

² Mission expert UNOPS en Investissement, Projet de Renforcement de la Capacité de Gestion du Gouvernement, Soutien au Secteur Privé, Rapport rédigé par Mme Leila Farah Mokaddem, Décembre 1998.

To legally form and register a company, the general procedures apply:

Action Required	Parties Concerned	Estimated Time for Completion	Formalities Required	Details
Formulation of company statute	Notary Public	Depending on complexity, could be completed within one week	There are currently only three notary publics in Djibouti.	The owner and notary public elaborate the statute of the company. The paid-in-capital of the company must be transferred to a bank in Djibouti, where it is blocked. Once the company statute is finalized, the notary public prepares a voucher (attestation) to the bank. If the paid-in-capital has already been deposited, the bank signs and returns the voucher (attestation) to the owner, who then delivers it to the notary public. The paid-in-capital is released once the company is legally registered. At the conclusion of this process, the notary public will place an announcement in the main Djibouti newspaper "La Nation" announcing the creation of the company.
Registration of company statute	Ministère des Finances, Service des Contributions Directes	Usually within two weeks	<ul style="list-style-type: none"> Application form (Declaration pour la patente) Proof of Identity 2 photographs Completed Police enquiry (Enquête de Moralité) Fiscal Stamps (timbre fiscal) at 500 DF per page of statute document Statute of the company (four copies) Bank Voucher (attestation bancaire) 2000 DF bank voucher fee 5% of the paid-in-capital 	

Action Required	Parties Concerned	Estimated Time for Completion	Formalities Required	Details
Registration (Immatriculation) with the Registre du Commerce	Ministère de la Justice, Greffe du Tribunal du Commerce	One day	<ul style="list-style-type: none"> Application form (Declaration aux Fins d'Immatriculation, Registre de Commerce) Proof of Identity Statute of the company Police record (Casier Judiciaire) Fiscal Stamp (500 DF) Djiboutian companies: up to 32,200 DF, for free zone companies: 270,000 DF 	Following approval of application, the applicant will receive a receipt (recepissé) showing the registration number issued to the company. The receipt will then authorize the bank to release the blocked paid-in-capital funds.
Registration with the Organisme de Protection Sociale (Social Security)	Ministère de l'Emploi et de la Solidarité Nationale	One day	<ul style="list-style-type: none"> Application form (Fiche d'Identité de l'Employeur) Application form (Demande d'Immatriculation d'un Employeur) Application form (Attestation Employeur) 	Once a company is formed, its owner applies to OPS and is issued an affiliation number (Numéro d'Affiliation). Then, between 1-10 of each month, 19.7% of each employee's salary must be remitted to OPS. A paper form is used for this purpose (Relevé Nominatif des Salariés et Déclaration des Salaires Perçus). Remittances are in cash, check, or through bank transfer. The 19.7% collected on each salary is comprised of 4% employee contribution, and 15.7% employer contributions.
Company Registration with the Inspection du Travail (Labor Inspection office)	Ministère de l'Emploi et de la Solidarité Nationale	One day		Once a company is formed, its owners are required to send a letter to the Inspection du Travail announcing the creation of the company. (Loi 140/AN/97/3ème)

Action Required	Parties Concerned	Estimated Time for Completion	Formalities Required	Details
Employee Registration with the Ministry of Labor	Ministère du Travail, Service National pour l'Emploi	One day	<p>Employers must send each new hire, with an offer letter (on company letterhead) to the Service National pour l'Emploi to register. For foreigners, the following documentation is required before authorization to employ is granted:</p> <ul style="list-style-type: none"> ▪ Application form (Demande d'autorisation du Travail) ▪ Curriculum Vitae ▪ Employment Contract (four copies) ▪ Copy of Djibouti visa ▪ Photocopy of diplomas <p>Employment priority is normally given to Djiboutians. Employment authorization will not be granted to foreigners if there exists Djiboutians with similar skills.</p>	<p>Employers must declare on a monthly basis their current staffing needs to the Service National pour l'Emploi. Originally, employers could only hire through the Service. This regulation has now been changed, to allow employers to hire directly whom they choose. Nonetheless, each new hire must be sent to the Service for registration.</p>

In addition to these formalities, certain professions or economic activities, such as restaurants, alcohol and tobacco vendors, must obtain an operating license from the Ministry of the Interior before commencing activities.

4.2 One-Stop Company Registration (Guichet Unique)

The UNOPS "Projet de Renforcement de la Capacité de Gestion du Gouvernement" argued in favor of the creation of a One-Stop company registration service, stating that it would facilitate administrative procedures, reduce the burden on the government, and promote investments. However, the service has not yet been fully implemented, and most investors seemed unaware of its existence. As it currently stands, the National Agency for Investments is assisting investors wishing to register companies in Djibouti. But their assistance is mostly centered on informing potential investors, rather than carrying out the full registration on their behalf.

4.3 Free Zone Companies

Ordinance (Ordonnance) No. 80/018/PR, published on February 14, 1980 allowed the establishment of free zone companies. However, these companies must receive tacit approval from the President of the Republic before they are allowed to operate.

Under the Ordinance, the registered office of the company must be situated within the free zone of Djibouti. The profits resulting from all business activities of free zone companies derived from outside the part of Djibouti territory that is not comprised within the free zone shall be exempt from all taxes and duties. However, free zone companies may not hold among their assets any real estate situated in any part of the Republic of Djibouti outside of the free zone. Furthermore, free zone companies may not own more than 20% in the capital or equity of a Djibouti company

The Djiboutian free zone, created by Ordinance No. 80-97/PR/FI of 30 July 1980 is situated within the Port of Djibouti's property, though work is proceeding on the addition of another 55 hectares situated at about 2 km from the port. Merchandise entering the free zone is exempted from duties and taxes.

4.4 Export Processing Companies

Law No. 65/AN/93/3 creates the export processing zone system, which defines a legal status granted to companies established in Djibouti and which have been issued a certificate of export processing. An Export Processing Company is entitled, during its first ten years of operation, to total exemption from taxes on profit. Dividends distributed to the company's shareholders are free from any tax for the whole life of the company. The company is exempted from land taxes for the first twenty years of its activity. Imports of raw materials, intermediate products, accessories and equipment goods figuring in the list attached to the certificate of export processing zone are exempt from the domestic consumer tax (Taxe Intérieure de Consommation T.I.C.)

4.5 Analysis

Our overall conclusion is that while the process is not overly burdensome, it would benefit from a certain amount of formalization and streamlining. Particularly, the number of required formalities burdens the registration process. While it is possible for a notary public to handle most of the formalities on behalf of the applicant, the process remains nonetheless time consuming and costly. Most apparent is:

- The lack of coordination between the various government agencies involved in this process (Ministry of Finance, Ministry of Justice, Police Force, Ministry of Labor). In addition.
- A seemingly inadequate procedure for record keeping and automation through computerized management information systems.
- The lack of an official investor guide, regularly published and updated, to assist new investors and to make the process details, fees, and delays more transparent.

In many Investor Roadmap exercises, best practice in the area of company formation can be found in countries operating on the basis of English law, in which a philosophy of *Caveat Emptor* prevails. In this system, requirements for registration are minimal. In Djibouti, practices such as the submission of photographs and identification make the country somewhat unique in terms of requirements for COMESA member states, many of which operate on the basis of English law.

The concept of a "registration" is one that suggests that an approval should not be necessary. In Djibouti, approval of the documentation is necessary to complete the registration formalities - these approvals come at multiple stages in the process, any of which could derail the startup of a company.

Recommendations

The Government of Djibouti should review the procedures involved in registering companies with an eye toward streamlining procedures and reducing documentary requirements. Toward that end, it should designate a single agency as the primary depository of company information and data; moreover, simpler forms should be used to reduce the excessive paper work requirements for foreign investors.

The Government of Djibouti should eliminate the "capital freezing" requirement for the incorporation of a company. Not only does it prevent companies from using these funds to pay start up taxes, it serves no useful purpose. It is simply an additional step in the incorporation process that adds significant delays and costs.

The Government should also re-evaluate the need for some of the documents such as photographs. It should look towards automating "approvals" for registration, based on pre-established minimum requirements having been met.

4.6 Registration Under the Investment Code

Law no. 58/94/3rd of 16 October 1994, amending law no. 88/AN/1 of 13 February 1984 set up a framework that grants specific incentives and tax advantages to new investors.

The Investment code defines two schemes A and B (Régime A et Régime B).

Under scheme A, industries engaged in economic activities deemed important for the development of Djibouti (such as fishing, mining, oil exploration, tourism, transport, banking, consulting), and investing a minimum of 5 million DF are: 1) exempted from payments of license fees for up to 5 years, and 2) exempted from the payment of import taxes on equipment deemed necessary for the completion of the investment.

Under Scheme B, enterprises deemed to present a particular social or economic advantage, and investing a minimum of 50 million DF are 1) exempted from the license tax during the first year of operation and the following ten years, exempted from the real estate levy for a maximum period of ten years starting from the year following the completion of the works, 3) exempted from corporate and individual taxation of industrial and commercial profits for up to a maximum of ten years following the start of operations, 4) exempted from duties (Taxe Intérieure de Consommation) on raw materials imported and used during the first 10 fiscal years.

Law no. 58/94/3rd of 16 October 1994 created a National Investment Board (Commission Nationale des Investissements) to enforce and monitor the application of the law. The law stipulates that the Board has a period of one month to review and comment on an investor's registration request. If the Board does not reply within one month for Scheme A, or within two months for Scheme B, from the completion of the application, then the law states that the investment is considered as registered.

To register under the Investment Code, an investor must:

- fill out an application form (Demande d'Agrément au Code des Investissements)
- describe the nature, cost, and schedule of the investment
- indicate the number, qualifications, and schedule of the permanent posts to be created
- specify the categories of the fiscal benefits being applied for
- present a feasibility study (étude de rentabilité)

Once the documents are completed, they are presented to the Secretary of the Board of Investments, at the Ministry of Presidential Affairs and Investments, who then forwards it to the National Investment Board. After review, the Board presents its

recommendation to the Council of Ministers. The Council of Ministers usually adopts the Board's and decrees its approval.

4.7 Analysis

Interviews conducted with private sector companies revealed the existence of substantial delays before the Board issued approval or denial. And though the law states that a lack of response from the Board beyond the stipulated time limits signifies approval, investors were usually unable to benefit from the tax exemptions granted by the law. Specifically, without a decree (arrêté) indicating approval by the Council of Ministers, investors are unable to benefit from the income, real estate, and import duties exemptions. Finally, the role of Investments Agency, and the support that it will provide to investors, is not clear to investors.

Many nations have done away with incentives altogether, instead moving towards lower tax rates for all companies, or stepped corporate tax rates for manufacturing firms, mining firms, and commercial and trading firms. This then reduces the ambiguity associated with the approval of incentives.

Recommendations

It is recommended that the Government of Djibouti reinforce the role of the Investments Agency to allow it to reduce the administrative burdens faced by investors. The current framework is vague and many investors have encountered difficulties in obtaining the full array of benefits to which they are entitled. In addition, the Government should develop formal printed guidelines for investors who wish to register under the Investment Code.

4.8 Tax Registration and Reporting

The Ministry of Finance is charged with the collection of taxes in Djibouti. These taxes are divided into direct and indirect taxes, as well as a number of other fees on specific government services.

Direct taxes, which include income and property taxes, are collected by the Direction des Contributions Directes. Duties are collected by the Direction des Contributions Indirectes. Government fees include fiscal stamps on official paperwork, vehicle taxes and driving licenses.

A summary of the taxes collected is presented here below:

- TAXATION MECHANISMS IN DJIBOUTI -				
TAX	APPLICATION	EXEMPTIONS	BASIS AND RATE	
<u>DIRECT TAXATION</u>				
1. Income tax: general solidarity tax (impôt general de solidarite IGS)				
1.1 Tax on Salaries	Monthly and progressive taxation on salaries – withheld by employer	<u>Exemptions</u> : - Monthly salaries below 25 000 DF - Expenses reimbursement	25,000 to 30,000 30,000 to 100,000 100,000 to 200,000 200,000 to 400,000 400,000 to 600,000 600,000 to 800,000 Greater than 800,000	2% 6% 10% 14% 19% 25% 32%
1.2 National Contribution (Contribution Patriotique)	Monthly and proportional taxation – withheld by employer	<u>Exemptions</u> : Monthly salaries below 60,000 DF		8%
1.3 Tax on fringe benefits	Monthly taxation – withheld by employer		30,000 to 100,000 100,000 to 150,000 150,000 to 250,000 250,000 to 350,000 350,000 to 450,000 450,000 to 550,000 Greater than 550,000	4% 5% 6% 7% 8% 9% 10%
1.4 Tax on profits (Professional activities)		<u>Exemptions</u> : net profits below 600,000 DF/year	25% of net profits	
1.5 Tax on profits (Individual enterprises)		<u>Exemptions</u> : - net profits below 600,000 DF/year - as stipulated by Investment Code - real estate income	25% of net profits	

- TAXATION MECHANISMS IN DJIBOUTI -			
TAX	APPLICATION	EXEMPTIONS	BASIS AND RATE
1.6 Tax on profits (Companies)		<u>Exemptions:</u> - as stipulated by Investment Code - real estate income	25% of net profits
1.7 Minimum tax (Impôt minimum forfaitaire IMF)			1% of revenues or a minimum of 120,000 DF
1.8 Transfer Tax		<u>Exemptions:</u> - primary residence - value below 100,000 DF	5% of value
2. Real Estate Taxes			
2.1 Tax on construction	Tax on yearly rental value starting from the sixth year after construction completion	<u>Exemptions:</u> - public buildings - religious and sports buildings - as per investment code	<div>0 to 1,120,000 10%</div> <div>1,120,000 to 3,840,000 20%</div> <div>3,840,000 to 6,720,000 25%</div> <div>Greater than 6,720,000 30%</div>
2.2 Tax on un-built properties		<u>Exemptions:</u> - government properties - land used for educational, recreation, or humanitarian purposes - properties belonging to international organizations, embassies and consulates	21% of rental value
2.3 Tax on undeveloped properties	Tax on properties undeveloped on the first of every year or for which development had ceased for more than 5 years	<u>Exemptions:</u> - government properties - agricultural land - properties belonging to international organizations, embassies and consulates	5% of value

- TAXATION MECHANISMS IN DJIBOUTI -			
TAX	APPLICATION	EXEMPTIONS	BASIS AND RATE
2.4 Waste Removal Tax		<u>Exemptions:</u> - industrial businesses - public buildings - buildings not receiving the service	4.5% of tax assessed on construction (2.1 above)
INDIRECT TAXATION			
3. Duty Taxes (Taxe Intérieure de Consommation)	Assessed on all imports	<u>Exemptions:</u> - diplomatic privileges - Investment Code - agreed protocols - specific decrees	-5 DF/kg (vegetables and grains) - 5% – sensitive products - 10% – general consumption products - 20% – food products - 33% – all other products
4. Surtax on Specific Products	the following products are assessed a surtax: dairy products, fruit juices, tobacco, alcohol, khat, petrol products, mineral water, perfumes		

4.9 Analysis

While the tax structure in Djibouti is fairly simple, the interaction with the tax authorities is highly complicated. For each type of tax investors must submit numerous forms with basically the same information and attachments.

Recommendations

The tax registration needs to be simplified. Such streamlining could be undertaken by tax authorities independently without any change in the tax legislation. It will make life easier for investors and reduce the time that civil servants devote to processing paperwork. The ultimate goal would be the creation of a “one-stop” tax registration system whereby an investor has to interact with the tax authority only once and the different tax declaration numbers can be issued on a single visit. Better yet, a system could be devised whereby a single number could be issued for all relevant taxes.

4.10 Financial Controls

The Djiboutian Franc has been linked since 1949 to the US dollar by a fixed parity. The parity, fixed by the National Bank of Djibouti, has remained unchanged since 1973 and is equal to 1 US\$ = 177.721 DF. Inflation is minimal.

There are no exchange controls in Djibouti, and there is freedom of capital flow. In addition, import and export licenses are not required.

4.11 Conflict Resolution and Mediation

Law No. 51/AN/99/4 of 31 August 1999 creates the position of the Mediator of the Republic, an independent authority charged with resolving conflicts between the public and government agencies. The law states that the Mediator will review complaints lodged by individuals or companies. While not allowed to intervene in on-going legal proceedings, the Mediator can advise government agencies on conflict resolution. If the matter is not resolved, the Mediator can raise the matter to the public's attention. Ministers and government agencies are instructed to cooperate with the Mediator.

While the law has not yet been tested, it does seem to provide a wide range of responsibilities to a single entity – the Mediator – without providing any executive authority to back its decisions.

4.12 Intellectual Property

Djibouti's intellectual property framework is mostly based on French laws adopted after the country's independence. In 1993, Djibouti joined the African Organization for

Intellectual Property and has recently applied for World Intellectual Property Organization membership.

Law No. 114/AN/96/3e of 3 September 1996 provides copyright protection to works by Djiboutian citizens and foreigners residing in Djibouti. Copyright protection applies during the life of the author and for a period of 25 years after the author's death.

5. OPERATING

5.1 Importing and Exporting

Import and export procedures are fairly simple in Djibouti: unlike many other African countries, there are no goods pre-inspection procedures, and the port of Djibouti generally operates below full utilization. Several private importers confirmed that goods are usually cleared within 72 hours.

5.1.1 Port of Djibouti (Port Autonome International de Djibouti - PAID)

Port of Djibouti

Head Office:

Telephone: 35 10 31 and 35 54 56

Facsimile: 35 61 87

email: port@intnet.dj

The port of Djibouti provides natural access to Djibouti and Ethiopia, and serves as a base for both liner transshipment and regional feeder services. PAID is responsible for providing and maintaining the port's structures, channels, and navigation systems. It also manages and operates the container terminal, but private operators undertake cargo handling in the rest of the port. The following table lists the handling charges assessed by PAID.

Maximum Handling Charges for General Cargo			
General Tariffs			
A)	Export	per freight ton	
		DF	US\$
	Unloading wagon / trucks	936	5.266
	Shorthandling	364	2.048
	Stevedoring	418	2.352
B)	Import	per freight ton	
		DF	US\$
	Stevedoring	614	3.454
	Shorthandling and stacking	553	3.111
	Loading wagon / trucks	997	5.609
C)	Transshipment	per freight ton	
		DF	US\$
	Stevedoring	546	3.072
	Shorthandling and stacking	495	2.785
	Shothandling	333	1.873
	Stevedoring	385	2.166

Container Terminal Handling Charges		
LANDING CHARGES	20' Container	40' Container
Import – Transit	US\$197.50	US\$395.00
Export - Transit	US\$133.00	US\$266.00
STORAGE CHARGES	20' Container	40' Container
Import – Transit		
Up to 30 days storage	Free	Free
Beyond 30 days storage	US\$6.00/day	US\$12.00/day

The port applies specific tariffs for wood and timber, skin and leather, livestock, high value goods, explosives and fuel, and vehicles. In addition, port dues are applicable to certain goods, including oil products, staple commodities, livestock and vehicles.

5.1.2 Clearing Goods

Goods are cleared following the settlement of customs duties and port handling charges, each respectively handled by:

Service des Contributions Indirectes, Ministère des Finances et de l'Economie Nationale, and ,

Bureau d'Enregistrement et d'Exploitation, Port Autonome International de Djibouti.

Both bureaus are co-located in the same building, near the port entrance.

To clear goods, a shipper chooses one of several possible forms, depending on whether the goods are destined for Djibouti (Mise à la Consommation), for export (Exportation), for transit (Transit), for temporary admission (Admission Temporaire), for re-export following temporary admission (Reexportation en Suite d'Admission Temporaire), for storage (Entrée en Entrepôt), or for entry into the free zone (Entrée en Zone Franche).

Imported goods are cleared with the Bureau des Contributions Indirectes as per the following procedure:

- 1 An importer is alerted by the shipping agent of goods arrival.
- 2 The importer or a representative reports to the Bureau des Contributions Indirectes – Section des Manifestes, at the port, with a copy of the manifest. The manifest is then assigned a number.

- 3 The importer fills out a declaration form, and attaches to it the delivery order (Bon de Livraison), the packing list, and the commercial invoice. All declarations are charged a 500 DF stamp fee. The Bureau des Contributions Indirectes requires original copies of all documents.
- 4 The completed paperwork is then registered by the Bureau des Contributions Indirectes, and is forwarded to the Section des Manifestes where the submitted declaration is compared to the manifest. If the information is found to be inconsistent, the Manifests Section may require copies of the letter of credit and the insurance documents. If the declaration is in order, it is recorded and forwarded to the Taxation Section for rate calculations.
- 5 Once the duties (Taxe Intérieure de Consommation T.I.C.) are paid on the imported goods, the importer is issued a receipt and the receipt number is added to the declaration. The importer is finally issued an exit permit (Bon à Enlever) which allows the exit of the merchandise from the port.

It is worth noting that for goods originating from Europe, duties are calculated based on the value of the commercial invoice. For goods originating from Dubai or the Far East, duties are calculated based on the Bureau's own estimate of the value of the goods, as the commercial invoices are deemed unreliable.

5.1.3 Fishing Port

Law No. 54/AN/99/4 of 31 August 1999 created and regulated the Djiboutian fishing port. The fishing port was given the status of a free zone, and products can be freely exported to foreign markets free of duty.

5.1.4 Other Modes of Transport

Besides roads, goods can be transported via the Djibouti-Ethiopian Railway, which links Djibouti with Addis Ababa. Djibouti International Airport is currently served by only a few international airlines, which include Air France and Ethiopian Airlines.

5.2 Analysis

Unlike many countries, Djibouti's import/export clearance procedures do not figure prominently in the private sector's list of complaints related to doing business in the country. However, to maintain the viability of PAID as one of the principal ports on the Red Sea, several improvements are still required.

While clearance times of 72 hours are still somewhat competitive with other African ports, modernization programs in Dar Es Salaam, Beira, and Maputo will leave the Port of Djibouti less than competitive in the future. A key to the success of the port is speed with which goods can be offloaded and cleared. While Customs is not particularly

well equipped technologically, it shows that it has the ability to clear goods within a day (as evidenced by the fast track clearance of perishable items)

Despite the introduction of the Single Bill of Entry widely used in the rest of the world, there has been no attempt to date to unify the various other forms used by importers/exporters into a single form. Importers also report periodic problems with Customs officials in terms of valuation of goods, particularly those originating from non-European ports. Because there is no formal process of conflict resolution, disputes are often settled by alerting more senior customs administrators who are known to the plaintiff.

Electronic Data Interchange (EDI) systems are not in use in Djibouti. In general, forwarders must first await the arrival of shipping documents (Bill of Lading, Invoice, Packing List) from their foreign agent, in order to submit them to the shipping agent to retrieve the manifest.

Despite these concerns, the process as a whole remains manageable only because most of the goods are transiting to Ethiopia, and are thus not taxed at the local consumption rate. It must be noted that the Ethiopian clearing procedures are considerably more lengthy, and, as a result, goods bound for Ethiopia are allowed to remain in the port for up to two weeks without incurring charges. Regardless of which country to which the goods are destined, almost all importers feel compelled to hire a clearing agent.

Port dues are generally moderate, in order to keep PAID competitive with other regional ports. Export clearance is not regarded as a problem for investors, mainly because of the low amount of Djiboutian exports, and the on-going government attempts to promote them.

Since Djibouti is a member of both WTO and COMESA, Customs officials have pledged to follow these organization's guidelines relating to goods valuations and customs harmonization.

Recommendations

Customs procedures will greatly benefit from measures to:

- streamline and standardize the clearance process, by consolidating the number of entry forms and publishing an official guide for Customs clearance
- introduce automation, both in record keeping and in allowing importers/exporters to file electronically
- immediately adopt WTO valuation standards as national standard
- work with COMESA on harmonizing Customs procedures
- introduce a formal system for conflict resolution between Customs and importers/exporters

The entire clearance process should strive for a typical clearance to not exceed 24 hours. This will probably require close coordination between the ports and Customs in order to reach this goal. It has been seen that this goal is achievable throughout Africa despite the manual applications of procedures. Mechanisms such as pre-clearance, bonding and insurance, and other steps can be taken to significantly reduce clearance time.

Djibouti should also work with customs officials from Ethiopia to assist in the reduction of clearance times for goods bound for Ethiopia. A fasttrack system will ensure that Djibouti remains the port of choice into the future when other ports, including Asmara, will become options.

5.3 Banking Activities

Decree No. 85-0271/PRE provides regulations concerning the opening, activity, and control of banking and financial institutions. All banking and financial establishments must be registered with the National Bank of Djibouti. The minimum amount of capital is fixed at 300 million DF. This amount is raised to one billion DF for banks with total assets of more than 20 billion DF. The National Bank is required by law to decide on the approval of an establishment in a period of one month after the necessary documentation is submitted.

Various private sector enterprises interviewed complained about the difficulty of obtaining long term credit. In fact, the National Bank's quarterly report indicates that the amount of lending had dropped by 10.2% in 1999 as compared to the previous year.

5.4 Company Liquidation

Law No. 191/AN/86/1 and Decree No. 86-116/PRE defined the rights and responsibilities for companies operating in Djibouti, including the procedures to follow when a company ceases its activities.

Companies entering liquidation proceedings are required by law to indicate "société en liquidation" and the name of the liquidator on all correspondence to third parties. The majority owners of the company designate a liquidator. If they are unable to reach a consensus, the decision is relegated to the court. The liquidator's mandate cannot exceed 3 years, but may be renewed by the majority owners or by the court. The name of the chosen liquidator(s) must be published within one month in the media, in addition to the following information:

- nature of the company's business
- company's legal structure
- amount of paid-in-capital
- street address

- registration number (numéro d'immatriculation) with the Registre du Commerce
- reason for the liquidation
- costs of the liquidation
- mailing address

At the completion of the liquidation, the liquidator(s) must publish a closure notice similar to the above but also indicating the end of the proceedings.

To liquidate a company, the following procedures apply:

Action Required	Parties Concerned	Estimated Time for Completion	Formalities Required
Declaration of Liquidation (déclaration de cessation d'activité)	Ministère des Finances, Service des Contributions Directes	Must be submitted before December 31 of the year when liquidation occurred	<ul style="list-style-type: none"> ▪ A letter addressed to the director (Chef de Service des Contributions Directes) stating the cessation of business activities. ▪ Original of the request of removal from the register of companies submitted to the Ministry of Justice
Request of removal from the register of companies (Déclaration de radiation)	Ministère de la Justice, Greffe du Tribunal du Commerce	One month. Cost is 20,000DF	
Notification of the Organisme de Protection Sociale (Social Security)	Ministère de l'Emploi et de la Solidarité Nationale	OPS must be notified within 8 days from the date of cessation of activities	Letter indicating the cessation of activities and thus the payment of monthly contributions
Notification of the Inspection du Travail (Labor Inspection office)	Ministère de l'Emploi et de la Solidarité Nationale		

5.5 Analysis

The same observations made for company startup apply to company liquidation. Namely, that the number of required formalities burdens the process. The process is time consuming because of a lack of coordination between the various government agencies involved (Ministry of Finance, Ministry of Justice, Ministry of Labor). In addition, record keeping is entirely paper based, and there is no official guide, regularly published and updated, to make the process details, fees, and delays more transparent.

Recommendations

The Government of Djibouti should attempt to streamline the procedures and reduce documentary requirements. Much of this can be accomplished at the same time as Company Registration procedures.

5.6 Regulated Professions

Specific laws and procedures govern certain professions. The following table is an illustration:

Profession	Governing laws and regulations	Details
Attorneys	Law No. 236/AN/87 of January 25, 1987	Foreigners planning to practice law in Djibouti must obtain the approval of the Ministry of Justice.
Notary Publics	Deliberation No. 315/7/L and Decree (arrêté) No. 73-105/SG/CD of 23 January 1973	Notary publics must be of Djiboutian nationality
Accountants	Law No. 63/AN/83/1 of August 25 1983	Foreign accountants must prove qualifications equivalent to those required for Djiboutian nationals, and must be residents of Djibouti
Architects	Law No. 53/AN/83 of 4 June 1983	Architects must have a degree recognized by the government and be licensed to practice
Certified Translators	Decree (arrêté) No. 80-1184/PR of 9 August 1980	Translators must be of Djiboutian nationality or residents of Djibouti for over 10 years.
Real Estate Agents	Law No. 146/AN/80 of 16 September 1980	
Medical Doctors	Law No. 56/AN/79 of 25 January 1979	Medical doctors must be registered with the Ministries of Health and Justice
Freight Forwarders	Deliberation No. 82/7 of 30 December 1969	Freight forwarders must be licensed by the Ministry of Finance (Patent d'Importation)

5.7 Analysis

The registration process is distributed across several ministries and governmental entities. Some of the professions, such as medicine, must be regulated by a specialized governmental entity. However, the licensing function, could benefit from centralization and streamlining of activities.

Recommendations

The Government of Djibouti should study the possibility of creating a centralized professional licensing agency, to accelerate and facilitate the licensing process, and ensure the quality of professionals.

Annex A

UPDATE TO THE DJIBOUTI INVESTORS' ROADMAP November 2001

Prepared by FATOUMA MAHAMOUD, Esq.

The Roadmap was finalized in December of 1999 and includes a series of observations and recommendations. The submission of this initial work to the Government of Djibouti and the organization of workshops for reflective thinking were to have taken place in September of 2000. Because everyone's energies were channeled into the Peace Conference on Somalia, held in Arta, it was not possible to present the document. After several visits from the Representatives of Booz Allen Hamilton, avenues were opened and the presentation took place in November 2001, in Djibouti. The guide will be updated in two stages.

In the initial stage, we will discuss the labor legislation that is in effect. In the second stage, we will proceed with updating the legislation involving both the fiscal sector and the costs of goods and services provided by government corporations.

I. Legislation Relating to Labor Law

Until very recently, labor law was based primarily only on two texts:

- The 1952 Labor Code, which was therefore developed prior to Djibouti's independence and in force in the overseas territories;
- All collective agreements of general application, as well as industry agreements.

The 1952 Code and its collective agreements are largely in effect. However, statutes have been passed since then.

- Act No. 102/AN/3rd L: imposed a 50% salary deduction for workers on sick leave. The objective of this law was to counter medical certificates of convenience. It was therefore beneficial for investment;

- Act No. 136/AN/4th L of July 2001: was enacted to repeal these provisions;

- Act No. 140/AN/3rd redefined the work contract both in regard to training conditions and the conditions of termination of employment.

It is important to emphasize that prior to this law, no provision capped the amount of damages in the case of unreasonable termination of employment. The judge for social matters had considerable latitude in setting the amount of damages.

For the damages due in the case of unreasonable termination of employment, Act No. 140, Article 26, introduced a maximum limit that is equal to 6 months of salary.

This law constitutes a remarkable advance in labor law and will be integrated as is in the new Labor Code.

Currently, a new Labor Code is being developed by the Department of Employment, and discussions are being held, under the aegis of this Department, between the various participants in economic life, that is, workers' and employers' representatives and public authorities.

Let us point out that a certain number of collective agreements, applying generally or to a particular sector, bring greater detail or supplement the provisions of the 1952 Code. These are, in particular:

- Collective agreement of the employees of the T.F.A.I. Bank.
- Collective agreement applicable to the non-public servant staff of the territorial services of the T.F.A.I.
- Collective agreement of January 1st, 1975.
- Collective agreement of hotel operators, restaurant owners and barkeepers.
- General conditions of employment of workers in business, building and the workshops of the T.F.A.I.

II. Fiscal and Other Legislation

1. New Fiscal Measures:

Substantially all economic operations (invoices, purchase orders, applications of all kinds submitted to an administrative service...) were subject to a stamp duty of 500 FD, through the 1997 Finance Act. The invoices of Government businesses, providing electricity, water and telecommunications services, were taxed through a 200 FD stamp duty.

This constituted a painless tax to the person who was liable and not an insignificant sum for the State.

After an initial period of application, this law was not used anymore.

Four years later, the 2001 Finance Act imposed a 7% tax on the provision of services. Initially, this tax was expected to involve all service providers, but in the end, it was limited solely to the telecommunications sector. It should be noted here that this stamp duty has still not been repealed.

This may constitute an additional barrier that is likely to bring a halt to investment.

2. Regulatory Measures Relating to the E.D.D. and Djibouti Telecom

A 1999 Presidential decree imposed a large rate increase on local calling. Prior to this decree, local calls were relatively affordable compared with the rates for international calls, which is, after all, normal.

Nowadays, local calls are billed at 35 FD for 8 minutes instead of for 15 minutes, as they were billed before 1999. Thus, the price of local calls has doubled. Combined with the tax on provision of services, the cost of local calls is very steep. At this time of globalization, the surtax on communications may prove to be a handicap for the country's development.

Another Presidential decree, dated July of 2001, divided the E.D.D. customers into three categories.

- Fisheries and agriculture: a decrease of around 10% is granted;
- Counter card users (new concept): a slight reduction in the KW rate is to be noted.

Beyond these two sectors, there was a 12.3% rate increase for all of the other consumers of *l'Électricité de Djibouti* [Djibouti Electricity] (E.D.D.).

The increase in electricity rates in Djibouti, along with those of Djibouti Telecom, is an obvious obstacle for investors wishing to become established in Djibouti.

In conclusion, it is certain that Djibouti presents advantages and definite potential for foreign investors, especially due to its political and social stability; the pre-eminence of liberal principles in the country's economic life; the existence of a modern infrastructure in banking, telecommunications and transportation; and its membership in COMESA. However, less extensive but, by and large, essential measures are recommended in order to complete the legal framework of investment promotion.

Annex B

WORKSHOP PRESENTATION

The attached PowerPoint presentation was presented to the stakeholders at a workshop held in the Djibouti Sheraton Hotel on November 12, 2001.



The Investor Roadmap of Djibouti

Presentation to the Government of Djibouti

Booz Allen Hamilton

November 12, 2001

Agenda

- 📁 **Part I:** findings and recommendations from the investor roadmap exercise in late 1999 / early 2000
- 📁 **Part II:** next steps for the Djibouti government to improve the investment environment

Part I: The Investor Roadmap Phase I

While Djibouti Has Made Great Strides Recently, the Reform Process Is Incomplete.

- 👤 Investors have spoken well of the speed of the government processes – they are usually completed in reasonable periods of time.
- 👤 However, this is due to Djibouti's small size, not the government's efficiency.
- 👤 Djibouti needs systems that are reliable and transparent to investors.

While Many Nations Are Implementing Macroeconomic Reforms...

- 🏢 New investment acts including new investment incentives
- 🏢 Loosening of foreign exchange controls in many countries in the developing world
- 🏢 Export processing zone legislation

... Second-tier Policy and Regulatory Constraints Remain

- 🏢 Overly lengthy work and residence permitting processes taking up to 2 years.
- 🏢 An investor must plan for a 2 to 3 year delay to acquire land and develop it in several countries with complicated land laws.
- 🏢 Some countries require visits to 10+ agencies to register a company

We Have Seen Significant Problems With...

- 🏢 Immigration
- 🏢 Acquiring land
- 🏢 Registering and obtaining licenses
- 🏢 Acquiring incentives
- 🏢 Importing and exporting

Often, Inappropriate Structures Are at the Root of the Problems

- 🏛 Economic philosophies have changed, but bureaucracy hasn't
- 🏛 Governments take control-oriented approaches
- 🏛 Private sector is considered "guilty until proven innocent"
- 🏛 Bureaucracies designed to prevent abuse - not to be efficient

Correcting Second-tier Constraints Is Far Less Painful Than Macroeconomic Reform

- 👤 “Civil service reform” need not be synonymous with retrenchment
- 👤 Training in areas such as customer service pays large dividends
- 👤 Government workers often know solutions to problems - they don't have the forum to express them

Each Process Is Analyzed on Three Dimensions

🏢 The Customer Interface - *"How easy is it to do business?"*

🏢 Procedures - *"How long does it take to process?"*

🏢 Legislative and Regulatory Environment - *"How do laws impact the Customer Interface and Procedures"*

The Roadmap Seeks Balance - But Particularly Address Imbalances Hurting the Investor

In Djibouti

- 👉 The land processes are designed to ensure that the most valuable land is put to its best use, but it is slow and cumbersome
- 👉 The work permit process is in place to ensure Djiboutians fill open jobs – but investors may look elsewhere if they can't import their staff.

Employing

- ☞ Generally, investors were not concerned about the entry procedures including residency and work permits
- ☞ However, there are concerns regarding the rejections of work permit applications. There do not appear to be clear criteria.
- ☞ Investors mentioned that the Labor Code is well out of date

Locating

- 🏢 Acquiring land is probably the biggest problem facing investors in Djibouti. The level of Government involvement is inappropriate
- 🏢 There is an acute shortage of reasonably priced land for investment
- 🏢 Multiple agencies interact in both the registration and construction permitting processes

Reporting

- 🗨️ Investors did not feel the process was overly lengthy – however, compared with other countries, the processes are complex.
- 🗨️ Investors were also concerned about the complexity of the tax system.
- 🗨️ There are no clear guidelines to the granting of incentives.

Operating

- 🏢 Djibouti's investors spoke highly of the import and export processes.
- 🏢 Investors mentioned the lack of long-term finance as a particular problem. An effective export and trade based economy will require a highly modern banking sector.

In Summary

- 🌐 Djibouti ranks reasonably well in the satisfaction of its investors
- 🌐 Individual problems – Land procedures are particularly cumbersome and can prove to be a barrier to investment.
- 🌐 Systematic problems – throughout the processes, we note that approval procedures are not always based on written rules and systems.

Part II: The Investor Roadmap Next Steps

The Foreign Investor's Hierarchy of Needs

- 🏠 A marketplace to sell their goods
- 🏠 An attractive environment in which to live
- 🏠 An infrastructure
- 🏠 Available sites for development
- 🏠 Other successful investors (both local and foreign)
- 🏠 Costs

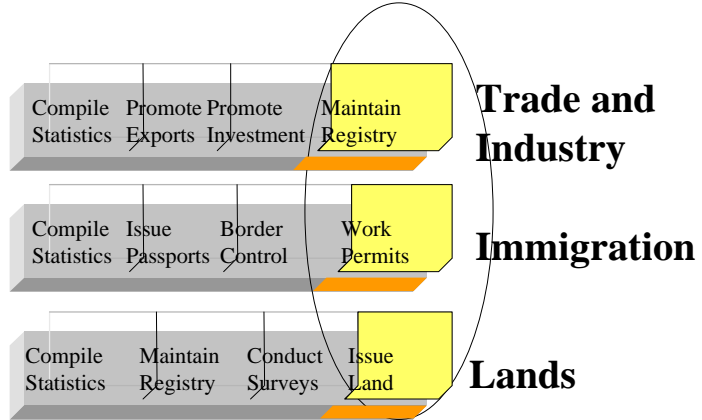
Facilitating Investment: Competing and Delighting

🏛️ While not all of the issues can be addressed through government, a proactive government can play a significant role in attracting investment

🏛️ Competing: Stable, transparent, protection, positive

🏛️ Delighting: serves its investors, jointly makes decisions

Customer Focused Governance



Delighting Best Practices: Countries Studied

🇲🇾 Malaysia

🇲🇺 Mauritius

🇨🇱 Chile

🇭🇺 Hungary

Delighting Best Practice: Commonalities

- 🏛️ All government agencies recognize the value of Foreign Direct Investors
- 🏛️ These government departments work together to promote and facilitate investment
- 🏛️ They all have have an active investment promotion agency

From controlling business to providing service

- 🏛️ Many governments worldwide started by controlling businesses. Many centrally-planned economies only allowed private business as an exception
- 🏛️ The next stage for governments was to deregulate and reduce the interaction
- 🏛️ The final stage is to begin assisting investors to succeed.

Recommendations for the Government of Djibouti

- 🏛️ Form a committee which includes high ranking members of government and representatives of the private sector
- 🏛️ Form working groups to design an action plan to eliminate government barriers
- 🏛️ Create deadlines and assign responsibilities – accept these assignments by Parliament.